

**2022**

**SESSION LAWS**

OF THE

**STATE OF WASHINGTON**

2022 REGULAR SESSION  
SIXTY-SEVENTH 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, Pritchard 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 2022 regular session is June 9, 2022.
- (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 2022 laws may be found at the back of the final volume.

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## CHAPTER 1

[Substitute House Bill 1732]

## LONG-TERM SERVICES AND SUPPORTS TRUST PROGRAM—DELAY AND QUALIFIED INDIVIDUALS

AN ACT Relating to delaying the implementation of the long-term services and supports trust program by 18 months to allow for the extension of benefits to persons born before January 1, 1968, by modifying conditions for becoming a qualified individual and eligible beneficiary and allowing for the refunding of prematurely collected premiums; amending RCW 50B.04.020, 50B.04.030, 50B.04.050, 50B.04.060, 50B.04.080, 50B.04.090, and 50B.04.140; adding a new section to chapter 50B.04 RCW; and declaring an emergency.

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

**Sec. 1.** RCW 50B.04.020 and 2021 c 113 s 2 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) 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;

(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 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

(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 (~~(January 1, 2024)~~) 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 (~~(January 1, 2022)~~) 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. 2.** RCW 50B.04.030 and 2021 c 113 s 3 are each amended to read as follows:

(1) The long-term services and supports trust commission is established. The commission's recommendations and decisions must be guided by the joint goals of maintaining benefit adequacy and maintaining fund solvency and sustainability.

(2) The commission includes:

(a) Two members from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

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

(c) The commissioner of the employment security department, or the commissioner's designee;

(d) The secretary of the department of social and health services, or the secretary's designee;

(e) The director of the health care authority, or the director's designee, who shall serve as a nonvoting member;

(f) One representative of the organization representing the area agencies on aging;

(g) One representative of a home care association that represents caregivers who provide services to private pay and medicaid clients;

(h) One representative of a union representing long-term care workers;

(i) One representative of an organization representing retired persons;

(j) One representative of an association representing skilled nursing facilities and assisted living providers;

(k) One representative of an association representing adult family home providers;

(l) Two individuals receiving long-term services and supports, or their designees, or representatives of consumers receiving long-term services and supports under the program;

(m) One member who is a worker who is, or will likely be, paying the premium established in RCW 50B.04.080 and who is not employed by a long-term services and supports provider; and

(n) One representative of an organization of employers whose members collect, or will likely be collecting, the premium established in RCW 50B.04.080.

(3)(a) Other than the legislators and agency heads identified in subsection (2) of this section, members of the commission are appointed by the governor for terms of two years, except that the governor shall appoint the initial members identified in subsection (2)(f) through (n) of this section to staggered terms not to exceed four years.

(b) The secretary of the department of social and health services, or the secretary's designee, shall serve as chair of the commission. Meetings of the commission are at the call of the chair. A majority of the voting members of the commission shall constitute a quorum for any votes of the commission. Approval of sixty percent of those voting members of the commission who are in attendance is required for the passage of any vote.

(c) Members of the commission and the subcommittee established in subsection (6) of this section must be compensated in accordance with RCW 43.03.250 and must be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060.

(4) Beginning January 1, 2021, the commission shall propose recommendations to the appropriate executive agency or the legislature regarding:

(a) The establishment of criteria for determining that an individual has met the requirements to be a qualified individual as established in RCW 50B.04.050 or an eligible beneficiary as established in RCW 50B.04.060;

(b) The establishment of criteria for minimum qualifications for the registration of long-term services and supports providers who provide approved services to eligible beneficiaries;

(c) The establishment of payment maximums for approved services consistent with actuarial soundness which shall not be lower than medicaid payments for comparable services. A service or supply may be limited by dollar amount, duration, or number of visits. The commission shall engage affected stakeholders to develop this recommendation;

(d) Changes to rules or policies to improve the operation of the program;

(e) Providing a recommendation to the council for the annual adjustment of the benefit unit in accordance with RCW 50B.04.010 and 50B.04.040;

(f) A refund of premiums for a deceased qualified individual with a dependent who is an individual with a developmental disability who is dependent for support from a qualified individual. The qualified individual must not have been determined to be an eligible beneficiary by the department of social and health services. The refund shall be deposited into an individual trust account within the developmental disabilities endowment trust fund for the benefit of the dependent with a developmental disability. The commission shall consider:

(i) The value of the refund to be one hundred percent of the current value of the qualified individual's lifetime premium payments at the time that certification of death of the qualified individual is submitted, less any administrative process fees; and

(ii) The criteria for determining whether the individual is developmentally disabled. The determination shall not be based on whether or not the individual with a developmental disability is receiving services under Title 71A RCW, or another state or local program;

(g) Assisting the state actuary with the preparation of regular actuarial reports on the solvency and financial status of the program and advising the legislature on actions necessary to maintain trust solvency. The commission shall provide the office of the state actuary with all actuarial reports for review. The office of the state actuary shall provide any recommendations to the commission and the legislature on actions necessary to maintain trust solvency;

(h) For the January 1, 2021, report only, recommendations on whether and how to extend coverage to individuals who became disabled before the age of eighteen, including the impact on the financial status and solvency of the trust. The commission shall engage affected stakeholders to develop this recommendation; and

(i) For the January 1, 2021, report only, the commission shall consult with the office of the state actuary on the development of an actuarial report of the projected solvency and financial status of the program. The office of the state actuary shall provide any recommendations to the commission and the legislature on actions necessary to achieve trust solvency.

(5) The commission shall monitor agency administrative expenses over time. Beginning November 15, 2020, the commission must annually report to the governor and the fiscal committees of the legislature on agency spending for administrative expenses and anticipated administrative expenses as the program shifts into different phases of implementation and operation. The November 15, ~~((2025))~~ 2027, report must include recommendations for a method of calculating future agency administrative expenses to limit administrative expenses while providing sufficient funds to adequately operate the program. The agency heads identified in subsection (2) of this section may advise the commission on the reports prepared under this subsection, but must recuse themselves from the commission's process for review, approval, and submission to the legislature.

(6) The commission shall establish an investment strategy subcommittee consisting of the members identified in subsection (2)(a) through (d) of this section as voting members of the subcommittee. In addition, four members appointed by the governor who are considered experienced and qualified in the field of investment shall serve as nonvoting members. The subcommittee shall provide guidance and advice to the state investment board on investment strategies for the account, including seeking counsel and advice on the types of investments that are constitutionally permitted.

(7) The commission shall work with insurers to develop long-term care insurance products that supplement the program's benefit.

**Sec. 3.** RCW 50B.04.050 and 2021 c 113 s 4 are each amended to read as follows:

(1) ~~((The))~~ 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 will not be available until July 1, 2026, 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 hours during each of the ten years in subsection (1)(a) of this section

~~((or))~~, each of the three years in subsection (1)(b) of this section, or each of the years identified in subsection (2) of this section.

~~((3))~~ (4) An exempt employee may never be deemed to be a qualified individual.

**Sec. 4.** RCW 50B.04.060 and 2019 c 363 s 7 are each amended to read as follows:

(1) Beginning ~~((January 1, 2025))~~ 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) ~~((A))~~ 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. The department of social and health services must engage sufficient qualified assessor capacity, including via contract, so that the determination may be made within ~~((forty five))~~ 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) ~~((A))~~ Except as limited in RCW 50B.04.050(2), an eligible beneficiary may not receive more than the dollar equivalent of ~~((three hundred sixty five))~~ 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. 5.** RCW 50B.04.080 and 2020 c 98 s 4 are each amended to read as follows:

(1) Beginning ~~((January 1, 2022))~~ July 1, 2023, the employment security department shall assess for each individual in employment with an employer a premium based on the amount of the individual's wages. The initial premium rate is ~~((fifty eight hundredths of one))~~ .58 percent of the individual's wages. Beginning January 1, ~~((2024))~~ 2026, and biennially thereafter, the premium rate shall be set by the pension funding council at a rate no greater than ~~((fifty eight hundredths of one))~~ .58 percent. In addition, the pension funding council must set the premium rate at the lowest amount necessary to maintain the actuarial solvency of the long-term services and supports trust account created in RCW 50B.04.100 in accordance with recognized insurance principles and designed to attempt to limit fluctuations in the premium rate. To facilitate the premium rate setting the office of the state actuary must perform a biennial actuarial audit and valuation of the fund and make recommendations to the pension funding council.

(2)(a) The employer must collect from the employees the premiums provided under this section through payroll deductions and remit the amounts collected to the employment security department.

(b) In collecting employee premiums through payroll deductions, the employer shall act as the agent of the employees and shall remit the amounts to the employment security department as required by this chapter.

(3) Nothing in this chapter requires any party to a collective bargaining agreement in existence on October 19, 2017, to reopen negotiations of the agreement or to apply any of the responsibilities under this chapter unless and until the existing agreement is reopened or renegotiated by the parties or expires.

(4)(a) Premiums shall be collected in the manner and at such intervals as provided in this chapter and directed by the employment security department.

(b) To the extent feasible, the employment security department shall use the premium assessment, collection, and reporting procedures in Title 50A RCW.

(5) The employment security department shall deposit all premiums collected in this section in the long-term services and supports trust account created in RCW 50B.04.100.

(6) Premiums collected in this section are placed in the trust account for the individuals who become eligible for the program.

(7) If the premiums established in this section are increased, the legislature shall notify each qualified individual by mail that the person's premiums have been increased, describe the reason for increasing the premiums, and describe the plan for restoring the funds so that premiums are returned to ~~((fifty-eight hundredths of one))~~ .58 percent of the individual's wages.

**Sec. 6.** RCW 50B.04.090 and 2021 c 113 s 6 are each amended to read as follows:

(1) Beginning ~~((January 1, 2022))~~ July 1, 2023, any self-employed person, including a sole proprietor, independent contractor, partner, or joint venturer, may elect coverage under this chapter. Coverage must be elected before ~~((January 1, 2025))~~ July 1, 2026, or within three years of becoming self-employed for the first time. Those electing coverage under this subsection are responsible for payment of ~~((one hundred))~~ 100 percent of all premiums assessed to an employee under RCW 50B.04.080. The self-employed person must file a notice of election in writing with the employment security department, in the manner required by the employment security department in rule. The self-employed person is eligible for benefits after paying the long-term services and supports premium for the time required under RCW 50B.04.050.

(2) A self-employed person who has elected coverage may not withdraw from coverage.

(3) A self-employed person who elects coverage must continue to pay premiums until such time that the individual retires from the workforce or is no longer self-employed. To cease premium assessment and collection, the self-employed person must file a notice with the employment security department if the individual retires from the workforce or is no longer self-employed.

(4) The employment security department may cancel elective coverage if the self-employed person fails to make required payments or file 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 ~~((thirty))~~ 30 days from the date of the notice in writing advising the self-employed person of the cancellation.

(5) Those electing coverage are considered employers or employees where the context so dictates.

(6) For the purposes of this section, "independent contractor" means an individual excluded from the definition of "employment" in RCW 50B.04.010.

(7) The employment security department shall adopt rules for determining the hours worked and the wages of individuals who elect coverage under this section and rules for enforcement of this section.

**Sec. 7.** RCW 50B.04.140 and 2019 c 363 s 15 are each amended to read as follows:

Beginning December 1, ~~((2026))~~ 2028, and annually thereafter, and in compliance with RCW 43.01.036, the commission must report to the legislature on the program, including:

- (1) Projected and actual program participation;
- (2) Adequacy of premium rates;
- (3) Fund balances;
- (4) Benefits paid;

(5) Demographic information on program participants, including age, gender, race, ethnicity, geographic distribution by county, legislative district, and employment sector; and

(6) The extent to which the operation of the program has resulted in savings to the medicaid program by avoiding costs that would have otherwise been the responsibility of the state.

**NEW SECTION. Sec. 8.** A new section is added to chapter 50B.04 RCW to read as follows:

Any premiums collected from the employee prior to July 1, 2023, shall be refunded to the employee within 120 days of the collection of the premiums. If the premiums were collected but not yet remitted to the employment security department, the employer shall refund the collected premiums to the employee. If the collected premiums were remitted to the employment security department, the employment security department shall refund the premiums to the employer within 120 days of the collection of the premiums, who shall then return any premiums collected from the employee.

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

Passed by the House January 19, 2022.

Passed by the Senate January 26, 2022.

Approved by the Governor January 27, 2022.

Filed in Office of Secretary of State January 27, 2022.



## CHAPTER 2

[Engrossed Substitute House Bill 1733]

## LONG-TERM SERVICES AND SUPPORTS TRUST PROGRAM—VOLUNTARY EXEMPTIONS

AN ACT Relating to establishing voluntary exemptions to the long-term services and supports trust program for certain populations identified in the long-term services and supports trust commission's 2022 recommendations report, specifically including exemptions only for veterans with a service-connected disability of 70 percent or higher, the spouses or domestic partners of active duty service members, persons residing outside of Washington while working in Washington, and persons working in the United States under a temporary, nonimmigrant work visa; amending RCW 50B.04.080 and 50B.04.050; and adding a new section to chapter 50B.04 RCW.

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

**Sec. 1.** RCW 50B.04.080 and 2020 c 98 s 4 are each amended to read as follows:

(1) ~~((Beginning))~~ Unless otherwise exempted pursuant to this chapter, beginning January 1, 2022, the employment security department shall assess for each individual in employment with an employer a premium based on the amount of the individual's wages. The initial premium rate is ~~((fifty-eight hundredths of one))~~ .58 percent of the individual's wages. Beginning January 1, 2024, and biennially thereafter, the premium rate shall be set by the pension funding council at a rate no greater than ~~((fifty-eight hundredths of one))~~ .58 percent. In addition, the pension funding council must set the premium rate at the lowest amount necessary to maintain the actuarial solvency of the long-term services and supports trust account created in RCW 50B.04.100 in accordance with recognized insurance principles and designed to attempt to limit fluctuations in the premium rate. To facilitate the premium rate setting the office of the state actuary must perform a biennial actuarial audit and valuation of the fund and make recommendations to the pension funding council.

(2)(a) The employer must collect from the employees the premiums provided under this section through payroll deductions and remit the amounts collected to the employment security department.

(b) In collecting employee premiums through payroll deductions, the employer shall act as the agent of the employees and shall remit the amounts to the employment security department as required by this chapter.

(3) Nothing in this chapter requires any party to a collective bargaining agreement in existence on October 19, 2017, to reopen negotiations of the agreement or to apply any of the responsibilities under this chapter unless and until the existing agreement is reopened or renegotiated by the parties or expires.

(4)(a) Premiums shall be collected in the manner and at such intervals as provided in this chapter and directed by the employment security department.

(b) To the extent feasible, the employment security department shall use the premium assessment, collection, and reporting procedures in Title 50A RCW.

(5) The employment security department shall deposit all premiums collected in this section in the long-term services and supports trust account created in RCW 50B.04.100.

(6) Premiums collected in this section are placed in the trust account for the individuals who become eligible for the program.

(7) If the premiums established in this section are increased, the legislature shall notify each qualified individual by mail that the person's premiums have

been increased, describe the reason for increasing the premiums, and describe the plan for restoring the funds so that premiums are returned to ~~((fifty-eight hundredths of one))~~ .58 percent of the individual's wages.

**NEW SECTION. Sec. 2.** A new section is added to chapter 50B.04 RCW to read as follows:

(1) Beginning January 1, 2023, the employment security department shall accept and approve applications for voluntary exemptions from the premium assessment under RCW 50B.04.080 for any employee who meets criteria established by the employment security department for an exemption based on the employee's status as:

(a) A veteran of the United States military who has been rated by the United States department of veterans affairs as having a service-connected disability of 70 percent or greater;

(b) A spouse or registered domestic partner of an active duty service member in the United States armed forces whether or not deployed or stationed within or outside of Washington;

(c) An employee who holds a nonimmigrant visa for temporary workers, as recognized by federal law, and is employed by an employer in Washington; or

(d) An employee who is employed by an employer in Washington, but maintains a permanent address outside of Washington as the employee's primary location of residence.

(2) The employment security department shall adopt criteria, procedures, and rules for verifying the information submitted by the applicant for an exemption under subsection (1) of this section.

(3) An employee who receives an exemption under subsection (1) of this section may not become a qualified individual or eligible beneficiary and is permanently ineligible for coverage under this title, unless the exemption has been discontinued as provided in subsection (4), (5), or (6) of this section.

(4)(a) An exemption granted in accordance with the conditions under subsection (1)(b) of this section must be discontinued within 90 days of:

(i) The discharge or separation from military service of the employee's spouse or registered domestic partner; or

(ii) The dissolution of the employee's marriage or registered domestic partnership with the active duty service member.

(b) Within 90 days of the occurrence of either of the events in (a) of this subsection, an employee who has received an exemption under subsection (1) of this section shall:

(i) Notify the employment security department that the exemption must be discontinued because of the occurrence of either of the events in (a) of this subsection; and

(ii) Notify the employee's employer that the employee is no longer exempt and that the employer must begin collecting premiums from the employee in accordance with RCW 50B.04.080.

(c) Upon notification to the employment security department and the employer, premium assessments established under RCW 50B.04.080 must begin and the employee may become a qualified individual or eligible beneficiary upon meeting the requirements established in this chapter.

(d) Failure to begin paying the premium established under RCW 50B.04.080 within 90 days of the occurrence of either of the events in (a) of this

subsection shall result in the payment of any unpaid premiums from the employee, with interest at the rate of one percent per month or fraction thereof, by the employee to the employment security department from the date on which the payment should have begun.

(5)(a) An exemption granted in accordance with the conditions under subsection (1)(c) of this section must be discontinued within 90 days of an employee changing the employee's nonimmigrant visa for temporary workers status to become a permanent resident or citizen employed in Washington.

(b) Within 90 days of the employee changing the employee's nonimmigrant visa for temporary workers status to become a permanent resident or citizen employed in Washington, the employee who has received an exemption under subsection (1)(c) of this section shall:

(i) Notify the employment security department that the employee no longer holds a nonimmigrant visa for temporary workers and is a permanent resident or citizen employed in Washington and the exemption must be discontinued; and

(ii) Notify the employee's employer that the employee no longer holds a nonimmigrant visa for temporary workers and is a permanent resident or citizen employed in Washington, and that the employer must begin collecting premiums from the employee in accordance with RCW 50B.04.080.

(c) Upon notification to the employment security department and the employer, premium assessments established under RCW 50B.04.080 must begin and the employee may become a qualified individual or eligible beneficiary upon meeting the requirements established in this chapter.

(d) Failure to begin paying the premium established under RCW 50B.04.080 within 90 days of an employee no longer holding a nonimmigrant visa for temporary workers and becoming a permanent resident or citizen employed in Washington shall result in the payment of any unpaid premiums from the employee, with interest at the rate of one percent per month or fraction thereof, by the employee to the employment security department from the date on which the payment should have begun.

(6)(a) An exemption granted in accordance with the conditions under subsection (1)(d) of this section must be discontinued within 90 days of an employee establishing a permanent address within Washington as the employee's primary location of residence.

(b) Within 90 days of the employee establishing a permanent address within Washington as the employee's primary location of residence, the employee who has received an exemption under subsection (1)(d) of this section shall:

(i) Notify the employment security department that the employee is residing in Washington and the exemption must be discontinued; and

(ii) Notify the employee's employer that the employee is no longer exempt and that the employer must begin collecting premiums from the employee in accordance with RCW 50B.04.080.

(c) Upon notification to the employment security department and the employer, premium assessments established under RCW 50B.04.080 must begin and the employee may become a qualified individual or eligible beneficiary upon meeting the requirements established in this chapter.

(d) Failure to begin paying the premium established under RCW 50B.04.080 within 90 days of an employee establishing a permanent address within Washington as the employee's primary location of residence shall result in

the payment of any unpaid premiums from the employee, with interest at the rate of one percent per month or fraction thereof, by the employee to the employment security department from the date on which the payment should have begun.

(7) Exempt employees are not entitled to a refund of any premium deductions made before the effective date of an approved exemption, except for premiums collected prior to the effective date of the premium assessment under RCW 50B.04.080.

(8) An employee who has received an exemption pursuant to this section shall provide written notification to all current and future employers of an approved exemption.

(9) If an exempt employee fails to notify an employer of an exemption, the exempt employee is not entitled to a refund of any premium deductions made before notification is provided, except for premiums collected prior to the effective date of the premium assessment under RCW 50B.04.080.

(10) Employers may not deduct premiums after being notified by an employee of an approved exemption issued under this section.

(a) Employers shall retain written notifications of exemptions received from employees.

(b) An employer who deducts premiums after being notified by the employee of an exemption is solely responsible for refunding to the employee any premiums deducted after the notification.

(c) The employer is not entitled to a refund from the employment security department for any premiums remitted to the employment security department that were deducted from exempt employees.

(11) The provisions of RCW 50B.04.085 do not apply to the exemptions issued pursuant to this section.

(12) The employment security department shall adopt rules necessary to implement and administer the activities specified in this section related to the program, including rules on the submission and processing of applications under this section.

**Sec. 3.** RCW 50B.04.050 and 2021 c 113 s 4 are each amended to read as follows:

(1) 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) When deeming a person to be a qualified individual, the employment security department shall require that the person have worked at least five hundred hours during each of the ten years in subsection (1)(a) of this section or each of the three years in subsection (1)(b) of this section.

(3) An exempt employee may never be deemed to be a qualified individual, unless the employee's exemption was discontinued under section 2 of this act.

Passed by the House January 19, 2022.

Passed by the Senate January 26, 2022.

Approved by the Governor January 27, 2022.

Filed in Office of Secretary of State January 27, 2022.

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## CHAPTER 3

[House Bill 1719]

### LAW ENFORCEMENT AGENCIES—MILITARY EQUIPMENT

AN ACT Relating to modifying the restrictions on the use and acquisition of military equipment by law enforcement agencies as it pertains to firearms and ammunition but only with respect to removing the restriction on ammunition, narrowing the restriction on firearms to include only rifles of .50 caliber or greater, and clarifying that the restrictions do not apply to shotguns, devices designed or used to deploy less lethal munitions, and less lethal equipment; amending RCW 10.116.040; and declaring an emergency.

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

**Sec. 1.** RCW 10.116.040 and 2021 c 320 s 5 are each amended to read as follows:

(1) A law enforcement agency may not acquire or use any military equipment. Any law enforcement agency in possession of military equipment as of July 25, 2021, shall return the equipment to the federal agency from which it was acquired, if applicable, or destroy the equipment by December 31, 2022.

(2)(a) Each law enforcement agency shall compile an inventory of military equipment possessed by the agency, including the proposed use of the equipment, estimated number of times the equipment has been used in the prior year, and whether such use is necessary for the operation and safety of the agency or some other public safety purpose. The agency shall provide the inventory to the Washington association of sheriffs and police chiefs no later than November 1, 2021.

(b) The Washington association of sheriffs and police chiefs shall summarize the inventory information from each law enforcement agency and provide a report to the governor and the appropriate committees of the legislature no later than December 31, 2021.

(3) For the purposes of this section:

(a) "Military equipment" means (~~firearms and ammunition~~) rifles of .50 caliber or greater, machine guns, armed helicopters, armed or armored drones, armed vessels, armed vehicles, armed aircraft, tanks, long range acoustic hailing devices, rockets, rocket launchers, bayonets, grenades, missiles, directed energy systems, and electromagnetic spectrum weapons.

(b) "Grenade" refers to any explosive grenade designed to injure or kill subjects, such as a fragmentation grenade or antitank grenade, or any incendiary grenade designed to produce intense heat or fire. "Grenade" does not include other nonexplosive grenades designed to temporarily incapacitate or disorient subjects without causing permanent injury, such as a stun grenade, sting grenade, smoke grenade, tear gas grenade, or blast ball.

(c) "Rifle" has the same meaning as provided under RCW 9.41.010, except "rifle" does not include: Any shotgun, as defined under RCW 9.41.010; any device designed or used to deploy less lethal munitions including, but not limited to, rubber, bean bag, soft nose, sponge, or other nonpenetrating impact rounds; or any less lethal equipment.

(4) This section does not prohibit a law enforcement agency from participating in a federal military equipment surplus program, provided that any equipment acquired through the program does not constitute military equipment. This may include, for example: Medical supplies; hospital and health care equipment; office supplies, furniture, and equipment; school supplies; warehousing equipment; unarmed vehicles and vessels; conducted energy weapons; public address systems; scientific equipment; and protective gear and weather gear.

**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 House January 28, 2022.

Passed by the Senate February 25, 2022.

Approved by the Governor March 4, 2022.

Filed in Office of Secretary of State March 4, 2022.

## CHAPTER 4

[Substitute House Bill 1735]

### PEACE OFFICERS—USE OF FORCE

AN ACT Relating to modifying the standard for use of force by peace officers but only with respect to providing that physical force may be used to the extent necessary, clarifying that deadly force may be used in the face of an immediate threat, authorizing the use of physical force to take a person into custody or provide assistance in certain circumstances involving a civil or forensic commitment, authorizing the use of physical force to take a minor into protective custody, authorizing the use of physical force to execute or enforce a court order, defining de-escalation tactics, clarifying when de-escalation tactics and less lethal alternatives must be used by a peace officer, specifying that the standard does not limit or restrict a peace officer's authority or responsibility to perform lifesaving measures or perform community caretaking functions, and specifying that the standard does not prevent a peace officer from responding to requests for assistance or service; amending RCW 10.120.010 and 10.120.020; creating a new section; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** (1) In 2021, the legislature passed Engrossed Second Substitute House Bill No. 1310, codified as chapter 10.120 RCW, with the goal of establishing a uniform statewide standard for use of force by peace officers. The standard emphasizes the importance of exercising reasonable care and preserving and protecting human life. However, the complexities and nuances of police practices and applicable laws, both in statute and common law, have posed implementation challenges for some police agencies. For that reason, the legislature hereby recognizes the urgent need to provide clarification and guidance for police agencies and the public.

(2) The legislature intends for peace officers to continue performing the critical role of supporting those in crisis and assisting vulnerable members of our communities. The legislature does not intend to prevent or prohibit peace officers from protecting citizens from danger. The legislature recognizes that peace officers can and do perform these responsibilities while also maintaining the highest standards of safety and reasonable care expressed in RCW 10.120.020.

(3) While the newly established civil standard in RCW 10.120.020 is unique insofar as it is codified in state law, it represents national best practices developed by police leaders across the nation. The legislature does not intend to abrogate the criminal liability protections afforded to peace officers in chapter 9A.16 RCW. Instead, the legislature hereby reaffirms its intent to establish RCW 10.120.020 as a distinct and more restrictive civil standard to inform the policies and practices applicable to all peace officers operating within state agencies and local governments. The legislature recognizes the profoundly important role peace officers have in protecting communities, and further recognizes that implementing and enforcing these best practices will improve public safety for all persons across the state.

**Sec. 2.** RCW 10.120.010 and 2021 c 324 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) "De-escalation tactics" refer to actions used by a peace officer that are intended to minimize the likelihood of the need to use force during an incident. Depending on the circumstances, "de-escalation tactics" may include, but are not limited to: Using clear instructions and verbal persuasion; attempting to slow down or stabilize the situation so that more time, options, and resources are available to resolve the incident; creating physical distance by employing tactical repositioning to maintain the benefit of time, distance, and cover; when there are multiple officers, designating one officer to communicate in order to avoid competing commands; requesting and using available support and resources, such as a crisis intervention team, a designated crisis responder or other behavioral health professional, or back-up officers.

(2) "Law enforcement agency" includes any "general authority Washington law enforcement agency" and any "limited authority Washington law enforcement agency" as those terms are defined in RCW 10.93.020.

~~((2))~~ (3) "Less lethal alternatives" include, but are not limited to, verbal warnings, de-escalation tactics, conducted energy weapons, devices that deploy oleoresin capsicum, batons, and beanbag rounds.

~~((3))~~ (4) "Peace officer" includes any "general authority Washington peace officer," "limited authority Washington peace officer," and "specially commissioned Washington peace officer" as those terms are defined in RCW 10.93.020; however, "peace officer" does not include any corrections officer or other employee of a jail, correctional, or detention facility, but does include any community corrections officer.

**Sec. 3.** RCW 10.120.020 and 2021 c 324 s 3 are each amended to read as follows:

(1)~~((1))~~ PHYSICAL FORCE. Except as otherwise provided under this section, a peace officer may use physical force against a person ~~((when))~~ to the extent necessary to:

(a) Protect against criminal conduct where there is probable cause to make an arrest; ~~((effect))~~

(b) Effect an arrest; ~~((prevent))~~

(c) Prevent an escape as defined under chapter 9A.76 RCW; ~~((or protect))~~

(d) Take a person into custody, transport a person for evaluation or treatment, or provide other assistance under chapter 10.77, 71.05, or 71.34 RCW;

(e) Take a minor into protective custody when authorized or directed by statute;

(f) Execute or enforce a court order authorizing or directing a peace officer to take a person into custody;

(g) Execute a search warrant;

(h) Execute or enforce an oral directive issued by a judicial officer in the courtroom or a written order where the court expressly authorizes a peace officer to use physical force to execute or enforce the directive or order; or

(i) Protect against an imminent threat of bodily injury to the peace officer, another person, or the person against whom force is being used.

~~((b) A)~~ (2) DEADLY FORCE. Except as otherwise provided under this section, a peace officer may use deadly force against another person only when necessary to protect against an ~~((imminent))~~ immediate threat of serious physical injury or death to the officer or another person. For purposes of this subsection ~~((+)(b))~~:

~~((+))~~ "Imminent" Immediate threat of serious physical injury or death" means that, based on the totality of the circumstances, it is objectively reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the peace officer or another person.

~~((+))~~ "Necessary" means that, under the totality of the circumstances, a reasonably effective alternative to the use of deadly force does not exist, and that the amount of force used was a reasonable and proportional response to the threat posed to the officer and others.

~~((+))~~ "Totality of the circumstances" means all facts known to the peace officer leading up to and at the time of the use of force, and includes the actions of the person against whom the peace officer uses such force, and the actions of the peace officer.

~~((2))~~ (3) REASONABLE CARE. A peace officer shall use reasonable care when determining whether to use physical force or deadly force and when using any physical force or deadly force against another person. To that end, a peace officer shall:

(a) When possible, ~~((exhaust available and appropriate de-escalation tactics prior to using any physical force, such as: Creating physical distance by employing tactical repositioning and repositioning as often as necessary to maintain the benefit of time, distance, and cover; when there are multiple officers, designating one officer to communicate in order to avoid competing commands; calling for additional resources such as a crisis intervention team or mental health professional when possible; calling for back-up officers when encountering resistance; taking as much time as necessary, without using physical force or weapons; and leaving the area if there is no threat of imminent harm and no crime has been committed, is being committed, or is about to be committed))~~ use all de-escalation tactics that are available and appropriate under the circumstances before using physical force;

(b) When using physical force, use the least amount of physical force necessary to overcome resistance under the circumstances. This includes a



consideration of the characteristics and conditions of a person for the purposes of determining whether to use force against that person and, if force is necessary, determining the appropriate and least amount of force possible to effect a lawful purpose. Such characteristics and conditions may include, for example, whether the person: Is visibly pregnant, or states that they are pregnant; is known to be a minor, objectively appears to be a minor, or states that they are a minor; is known to be a vulnerable adult, or objectively appears to be a vulnerable adult as defined in RCW 74.34.020; displays signs of mental, behavioral, or physical impairments or disabilities; is experiencing perceptual or cognitive impairments typically related to the use of alcohol, narcotics, hallucinogens, or other drugs; is suicidal; has limited English proficiency; or is in the presence of children;

(c) Terminate the use of physical force as soon as the necessity for such force ends;

(d) When possible, use ~~((available and appropriate))~~ less lethal alternatives that are available and appropriate under the circumstances before using deadly force; and

(e) Make less lethal alternatives issued to the officer reasonably available for ~~((their))~~ his or her use.

~~((3))~~ (4) A peace officer may not use any force tactics prohibited by applicable departmental policy, this chapter, or otherwise by law, except to protect his or her life or the life of another person from an imminent threat.

~~((4))~~ (5) Nothing in this section ~~((prevents))~~:

(a) Limits or restricts a peace officer's authority or responsibility to perform lifesaving measures or perform community caretaking functions to ensure health and safety including, but not limited to, rendering medical assistance, performing welfare checks, or assisting other first responders and medical professionals;

(b) Prevents a peace officer from responding to requests for assistance or service from first responders, medical professionals, behavioral health professionals, social service providers, designated crisis responders, shelter or housing providers, or any member of the public;

(c) Permits a peace officer to use physical force or deadly force in a manner or under such circumstances that would violate the United States Constitution or state Constitution; or

(d) Prevents a law enforcement agency or political subdivision of this state from adopting policies or standards with additional requirements for de-escalation and greater restrictions on the use of physical and deadly force than provided in this section.

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 immediately.

Passed by the House January 28, 2022.

Passed by the Senate February 25, 2022.

Approved by the Governor March 4, 2022.

Filed in Office of Secretary of State March 4, 2022.

CHAPTER 5

[Substitute House Bill 1286]

PSYCHOLOGY INTERJURISDICTIONAL COMPACT

AN ACT Relating to the psychology interjurisdictional compact; adding a new chapter to Title 18 RCW; and providing a contingent effective date.

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

NEW SECTION. **Sec. 1.** This act may be known and cited as the psychology interjurisdictional compact act.

NEW SECTION. **Sec. 2.** (1) The legislature finds:

(a) States license psychologists in order to protect the public through verification of education, training, and experience, and to ensure accountability for professional practice;

(b) The psychology interjurisdictional compact is intended to regulate the day-to-day practice of telepsychology and the provision of psychological services using telecommunication technologies by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority;

(c) The psychology interjurisdictional compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority;

(d) The psychology interjurisdictional compact is intended to authorize state psychology regulatory authorities to afford legal recognition, in a manner consistent with the terms of the compact, to psychologists licensed in another state;

(e) The psychology interjurisdictional compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that state regulation best protects public health and safety;

(f) The psychology interjurisdictional compact does not apply when a psychologist is licensed in both the home and receiving states; and

(g) The psychology interjurisdictional compact does not apply to permanent in-person, face-to-face practice; it does allow for authorization of temporary psychological practice.

(2) Consistent with the findings of subsection (1) of this section, the psychology interjurisdictional compact is designed to achieve the following purposes and objectives:

(a) Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state in which the psychologist is not licensed to practice psychology;

(b) Enhance the states' ability to protect the public's health and safety, especially client/patient safety;

(c) Encourage the cooperation of compact states in the areas of psychology licensure and regulation;

(d) Facilitate the exchange of information between compact states regarding psychologist licensure, adverse actions, and disciplinary history;

(e) Promote compliance with the laws governing psychological practice in each compact state; and

(f) Invest all compact states with the authority to hold licensed psychologists accountable through the mutual recognition of compact state licenses.

**NEW SECTION. Sec. 3.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adverse action" means any action taken by a state psychology regulatory authority which finds a violation of a statute or regulation that is identified by the state psychology regulatory authority as discipline and is a matter of public record.

(2) "Association of state and provincial psychology boards" means the recognized membership organization composed of state and provincial psychology regulatory authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

(3) "Authority to practice interjurisdictional telepsychology" means a licensed psychologist's authority to practice telepsychology, within the limits authorized under the psychology interjurisdictional compact, in another compact state.

(4) "Bylaws" means those bylaws established by the psychology interjurisdictional compact commission under section 11 of this act for its governance, or for directing and controlling its actions and conduct.

(5) "Client/patient" means the recipient of psychological services, whether psychological services are delivered in the context of health care, corporate, supervision, or consulting services.

(6) "Commissioner" means the voting representative appointed by each state psychology regulatory authority under section 11 of this act.

(7) "Compact state" means a state, the District of Columbia, or United States territory that has enacted the psychology interjurisdictional compact and which has not withdrawn under section 14 of this act or been terminated under section 13 of this act.

(8) "Confidentiality" means that principle that data or information is not made available or disclosed to unauthorized persons or processes.

(9) "Coordinated licensure information system" or "coordinated database" means an integrated process for collecting, storing, and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of state and provincial psychology regulatory authorities.

(10) "Day" means any part of a day in which psychological work is performed.

(11) "Distant state" means the compact state where a psychologist is physically present, not through the use of telecommunications technologies, to provide temporary in-person, face-to-face psychological services.

(12) "E-passport" means a certificate issued by the association of state and provincial psychology boards that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

(13) "Executive board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the psychology interjurisdictional compact commission.

(14) "Home state" means a compact state where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one compact state and is practicing under the authorization to practice interjurisdictional telepsychology, the home state is the compact state where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one compact state and is practicing under the temporary authorization to practice, the home state is any compact state where the psychologist is licensed.

(15) "Identity history summary" means a summary of information retained by the federal bureau of investigation, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.

(16) "In-person, face-to-face" means interactions in which the psychologist and the client/patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.

(17) "Interjurisdictional practice certificate" means a certificate issued by the association of state and provincial psychology boards that grants temporary authority to practice based on notification to the state psychology regulatory authority of intention to practice temporarily, and verification of one's qualifications for the practice.

(18) "License" means authorization by a state psychology regulatory authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

(19) "Noncompact state" means any state which is not at the time a compact state.

(20) "Psychologist" means an individual licensed for the independent practice of psychology.

(21) "Psychology interjurisdictional compact commission" or "commission" means the national administration of which all compact states are members.

(22) "Receiving state" means a compact state where the client/patient is physically located when the telepsychological services are delivered.

(23) "Rule" means a written statement by the psychology interjurisdictional compact commission adopted under section 12 of this act that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission and has the force and effect of statutory law in a compact state, and includes the amendment, repeal, or suspension of an existing rule.

(24) "Significant investigatory information" means investigatory information that:

(a) A state psychology regulatory authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered to be more substantial than a minor infraction; or

(b) Indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified or had an opportunity to respond.

(25) "State" means a state, commonwealth, territory, or possession of the United States or the District of Columbia.

(26) "State psychology regulatory authority" means a board, office, or other agency with the legislative mandate to license and regulate the practice of psychology.

(27) "Telepsychology" means the provision of psychological services using telecommunication technologies.

(28) "Temporary authorization to practice" means a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under the psychology interjurisdictional compact, in another compact state.

(29) "Temporary in-person, face-to-face practice" means where a psychologist is physically present, not through the use of telecommunications technologies, in the distant state to provide for the practice of psychology for 30 days within a calendar year and based on notification to the distant state.

**NEW SECTION. Sec. 4.** (1) The home state shall be a compact state where a psychologist is licensed to practice psychology.

(2) A psychologist may hold one or more compact state licenses at a time. If the psychologist is licensed in more than one compact state, the home state is the compact state where the psychologist is physically present when the services are delivered as authorized by the authority to practice interjurisdictional telepsychology under the terms of the psychology interjurisdictional compact.

(3) Any compact state may require a psychologist not previously licensed in a compact state to obtain and retain a license to be authorized to practice in the compact state under circumstances not authorized by the authority to practice interjurisdictional telepsychology under the terms of the psychology interjurisdictional compact.

(4) Any compact state may require a psychologist to obtain and retain a license to be authorized to practice in a compact state under circumstances not authorized by temporary authorization to practice under the terms of the psychology interjurisdictional compact.

(5) A home state's license authorizes a psychologist to practice in a receiving state under the authority to practice interjurisdictional telepsychology only if the compact state:

- (a) Currently requires the psychologist to hold an active e-passport;
- (b) Has a mechanism in place for receiving and investigating complaints about licensed individuals;
- (c) Notifies the commission, in compliance with the terms of this chapter, of any adverse action or significant investigatory information regarding a licensed individual;
- (d) Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the federal bureau of investigation, or other designee with similar authority, no later than 10 years after activation of the psychology interjurisdictional compact; and
- (e) Complies with the bylaws and rules of the commission.

(6) A home state's license grants temporary authorization to practice to a psychologist in a distant state only if the compact state:

(a) Currently requires the psychologist to hold an active interjurisdictional practice certificate;

(b) Has a mechanism in place for receiving and investigating complaints about licensed individuals;

(c) Notifies the commission, in compliance with this chapter, of any adverse action or significant investigatory information regarding a licensed individual;

(d) Requires an identity history summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the federal bureau of investigation, or other designee with similar authority, no later than 10 years after activation of the psychology interjurisdictional compact; and

(e) Complies with the bylaws and rules of the commission.

**NEW SECTION. Sec. 5.** (1) Compact states shall recognize the right of a psychologist, licensed in a compact state in conformance with section 4 of this act, to practice telepsychology in receiving states in which the psychologist is not licensed, under the authority to practice interjurisdictional telepsychology as provided in the psychology interjurisdictional compact.

(2) To exercise the authority to practice interjurisdictional telepsychology under the psychology interjurisdictional compact, a psychologist licensed to practice in a compact state must:

(a) Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(i) Regionally accredited by an accrediting body recognized by the United States department of education to grant graduate degrees, or authorized by provincial statute or royal charter to grant doctoral degrees; or

(ii) A foreign college or university deemed to be equivalent to an entity recognized under (a)(i) of this subsection by a foreign credential evaluation service that is a member of the national association of credential evaluation services or by a recognized foreign credential evaluation service;

(b) Hold a graduate degree in psychology that meets the following criteria:

(i) The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. The program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

(ii) The program must stand as a recognizable, coherent, organizational entity within the institution;

(iii) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

(iv) The program must consist of an integrated, organized sequence of study;

(v) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

(vi) The designated director of the program must be a psychologist and a member of the core faculty;

(vii) The program must have an identifiable body of students who are matriculated in that program for a degree;

(viii) The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

(ix) The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degree and a minimum of one academic year of full-time graduate study for a master's degree; and

(x) The program must include an acceptable residency as defined by the rules of the commission;

(c) Possess a current, full, and unrestricted license to practice psychology in a home state;

(d) Have no history of adverse action that violates the rules of the commission;

(e) Have no criminal record history reported on an identity history summary that violates the rules of the commission;

(f) Possess a current, active e-passport;

(g) Provide attestations in regard to: Areas of intended practice; conformity with standards of practice; competence in telepsychology technology; criminal background; and knowledge and adherence to legal requirements in the home states and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(h) Meet other criteria as defined by the rules of the commission.

(3) The home state maintains authority over the license of any psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology.

(4) A psychologist practicing into a receiving state under the authority to practice interjurisdictional telepsychology is subject to the receiving state's scope of practice. A receiving state may, in accordance with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions under the receiving state's applicable law to protect the health and safety of the receiving state's citizens. If a receiving state takes action, the state must promptly notify the home state and the commission.

(5) If a psychologist's license in any home state or compact state, or any authority to practice interjurisdictional telepsychology in a receiving state, is restricted, suspended, or otherwise limited, the e-passport must be revoked and the psychologist may not practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

**NEW SECTION. Sec. 6.** (1) Compact states must recognize the right of a psychologist, licensed in a compact state in conformance with section 4 of this act, to practice temporarily in other distant states in which the psychologist is not licensed, as provided in the psychology interjurisdictional compact.

(2) To exercise the temporary authorization to practice under the terms and provisions of the psychology interjurisdictional compact, a psychologist licensed to practice in a compact state must:

(a) Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

(i) Regionally accredited by an accrediting body recognized by the United States department of education to grant graduate degrees, or authorized by provincial statute or royal charter to grant doctoral degrees; or

(ii) A foreign college or university deemed to be equivalent to an entity recognized under (a)(i) of this subsection by a foreign credential evaluation service that is a member of the national association of credential evaluation services or by a recognized foreign credential evaluation service;

(b) Hold a graduate degree in psychology that meets the following criteria:

(i) The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. The program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

(ii) The program must stand as a recognizable, coherent, organizational entity within the institution;

(iii) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

(iv) The program must consist of an integrated, organized sequence of study;

(v) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

(vi) The designated director of the program must be a psychologist and a member of the core faculty;

(vii) The program must have an identifiable body of students who are matriculated in that program for a degree;

(viii) The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

(ix) The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degree and a minimum of one academic year of full-time graduate study for a master's degree; and

(x) The program must include an acceptable residency as defined by the rules of the commission;

(c) Possess a current, full, and unrestricted license to practice psychology in a home state;

(d) Have no history of adverse action that violates the rules of the commission;

(e) Have no criminal record history reported on an identity history summary that violates the rules of the commission;

(f) Possess a current, active interjurisdictional practice certificate;

(g) Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(h) Meet other criteria as defined by the rules of the commission.

(3) A psychologist practicing into a distant state under the temporary authorization to practice must practice within the scope of practice authorized by the distant state.

(4) A psychologist practicing into a distant state under the temporary authorization to practice is subject to the distant state's authority and law. A distant state may, in accordance with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may take other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens. If a distant state takes action, the state must promptly notify the home state and the commission.



(5) If a psychologist's license in any home state or compact state, or any temporary authorization to practice in any distant state, is restricted, suspended, or otherwise limited, the interjurisdictional practice certificate must be revoked and the psychologist may not practice telepsychology in a compact state under the temporary authorization to practice.

**NEW SECTION. Sec. 7.** A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate state psychology regulatory authority, as defined by the rules of the commission, and under the following circumstances:

(1) The psychologist initiates a client/patient contact in a home state via telecommunications technologies with a client/patient in a receiving state; and

(2) Meeting other conditions regarding telepsychology as determined by the rules adopted by the commission.

**NEW SECTION. Sec. 8.** (1) A home state may impose adverse action against a psychologist's license issued by the home state. A distant state may take adverse action on a psychologist's temporary authorization to practice within that distant state.

(2) A receiving state may take adverse action on a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a psychologist based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

(3) If a home state takes adverse action against a psychologist's license, that psychologist's authority to practice interjurisdictional telepsychology is terminated and the e-passport is revoked. Furthermore, that psychologist's temporary authorization to practice is terminated and the interjurisdictional practice certificate is revoked.

(a) All home state disciplinary orders which impose adverse action must be reported to the commission in accordance with the rules adopted by the commission. A compact state must report adverse actions in accordance with the rules of the commission.

(b) In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the rules of the commission.

(c) Other actions may be imposed as determined by the rules adopted by the commission.

(4) A home state's psychology regulatory authority must investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a receiving state as it would if such conduct had occurred by a licensee within the home state. In such cases, the home state's law controls in determining any adverse action against a psychologist's license.

(5) A distant state's psychology regulatory authority must investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under a temporary authorization to practice which occurred by a distant state as it would if such conduct had occurred by a licensee within the home state. In such cases, distant state's law controls in determining any adverse action against a psychologist's temporary authorization to practice.

(6) Nothing in this compact overrides a compact state's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation remains nonpublic if required by the compact state's law. Compact states must require psychologists who enter any alternative programs to not provide telepsychology services under the authority to practice interjurisdictional telepsychology services under the temporary authorization to practice in any other compact state during the term of the alternative program.

(7) No other judicial or administrative remedy is available to a psychologist if a compact state imposes an adverse action under subsection (3) of this section.

**NEW SECTION. Sec. 9.** (1) In addition to any other powers granted under state law, a compact state's psychology regulatory authority may:

(a) Issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a compact state's psychology regulatory authority for the attendance and testimony of witnesses, or the production of evidence from another compact state must be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state psychology regulatory authority must pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence are located; and

(b) Issue cease and desist or injunctive relief orders to revoke a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice.

(2) During the course of any investigation, a psychologist may not change his or her home state licensure. A home state psychology regulatory authority may complete any pending investigations of a psychologist and take any actions appropriate under its law. The home state psychology regulatory authority must promptly report the conclusions of the investigations to the commission. Once an investigation has been completed, and pending the outcome of the investigation, the psychologist may change his or her home state licensure. The commission must promptly notify the new home state of any such decisions as provided in the rules of the commission. All information provided to the commission or distributed by compact states under the investigation of the psychologist is confidential, filed under seal, and used for investigatory or disciplinary matters. The commission may create additional rules for mandated or discretionary sharing of information by compact states.

**NEW SECTION. Sec. 10.** (1) The commission must provide for the development and maintenance of a coordinated licensure information system and reporting system containing licensure and disciplinary action information on all psychologists to whom the psychology interjurisdictional compact is applicable in all compact states as defined by rules of the commission.

(2) A compact state must submit a uniform data set to the coordinated licensure information system on all licensees as required by the rules of the commission, including:

- (a) Identifying information;
- (b) Licensure data;

- (c) Significant investigatory information;
- (d) Adverse actions against a psychologist's license;
- (e) An indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked;
- (f) Nonconfidential information related to alternative program participation information;
- (g) Any denial of application for licensure, and the reasons for such denial; and
- (h) Other information which may facilitate the administration of the psychology interjurisdictional compact, as determined by the rules of the commission.

(3) The coordinated database administrator must promptly notify all compact states of any adverse action taken against, or significant investigative information on, any licensee in a compact state.

(4) Compact states reporting information to the coordinated database may designate information that may not be shared with the public without the express permission of the compact state reporting the information.

(5) Any information submitted to the coordinated database that is subsequently required to be expunged by the law of the compact state reporting the information must be removed from the coordinated database.

**NEW SECTION. Sec. 11.** (1) The compact states hereby create and establish a joint public agency known as the psychology interjurisdictional compact commission.

(a) The commission is a body politic and an instrumentality of the compact states.

(b) Venue is proper and judicial proceedings by or against the commission must 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.

(c) Nothing in the psychology interjurisdictional compact may be construed to be a waiver of sovereign immunity.

(2)(a) The commission shall consist of one voting representative appointed by each compact state who shall serve as that state's commissioner. The state psychology regulatory authority must appoint its delegate who may act on behalf of the compact state and be limited to:

- (i) Its executive director, executive secretary, or similar executive;
- (ii) A current member of the state psychology regulatory authority of a compact state; or
- (iii) A designee empowered with the appropriate delegate authority to act on behalf of the compact state.

(b) Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed. Any vacancy occurring in the commission must be filled in accordance with the laws of the compact state in which the vacancy exists.

(c) Each commissioner must be entitled to one vote with regard to the adoption of rules and creation of bylaws and must otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner must vote in person or by such other means as provided in the bylaws. The

bylaws may provide for commissioners' participation in meetings by telephone or other means of communication.

(d) The commission must meet at least once during each calendar year. Additional meetings must be held as set forth in the bylaws.

(e) All meetings must be open to the public, and public notice of meetings must be given in the same manner as required under the rule-making provisions in section 12 of this act.

(f) The commission may convene in a closed, nonpublic meeting if the commission discusses:

(i) Noncompliance of a compact state with its obligations under the psychology interjurisdictional compact;

(ii) The employment, compensation, discipline, or other personnel 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 against the commission;

(iv) Negotiation of contracts for the purchase or sale of goods, services, or real estate;

(v) An accusation against any person of a crime or formally censuring any person;

(vi) Disclosure of trade secrets or commercial or financial information which 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 investigatory records compiled for law enforcement purposes;

(ix) Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility for investigation or determination of compliance issues under the psychology interjurisdictional compact; or

(x) Matters specifically exempted from disclosure by federal and state statutes.

(g) If a meeting, or portion of a meeting, is closed under (f) of this subsection, the commission's legal counsel or designee must certify that the meeting may be closed and must reference each relevant exempting provision. The commission must keep minutes which fully and clearly describe all matters discussed in a meeting and must provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(3) The commission must, by a majority vote of the commissioners, prescribe bylaws and rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the psychology interjurisdictional compact including, but not limited to:

(a) Establishing the fiscal year of the commission;

(b) Providing reasonable standards and procedures:

- (i) For the establishment and meetings of other committees; and
  - (ii) Governing any general or specific delegation of any authority or function of the commission;
  - (c) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals in the proceedings, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting, revealing the vote of each commissioner with no proxy votes allowed;
  - (d) Establishing the titles, duties, authority, and reasonable procedures for the election of officers of the commission;
  - (e) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. The bylaws must exclusively govern the personnel policies and programs of the commission;
  - (f) Adopting a code of ethics to address permissible and prohibited activities of commission members and employees;
  - (g) Providing a mechanism for concluding the operations of the commission and the equitable disposition of any surplus funds that exist after the termination of the psychology interjurisdictional compact after the payment or reserving of all of its debts and obligations;
  - (h) The commission must publish its bylaws in a convenient form and file a copy of the bylaws and any amendments to the bylaws with the appropriate agency or officer in each of the compact states;
  - (i) The commission must maintain its financial records in accordance with the bylaws; and
  - (j) The commission must meet and take such actions as are consistent with the provisions of the psychology interjurisdictional compact and the bylaws.
- (4) The commission has the following powers:
- (a) The authority to adopt uniform rules to facilitate and coordinate implementation and administration of the psychology interjurisdictional compact. Rules have the force and effect of law and are binding in all compact states;
  - (b) To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law is not affected;
  - (c) To purchase and maintain insurance and bonds;
  - (d) To borrow, accept, or contract for services of personnel including, but not limited to, employees of a compact state;
  - (e) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the psychology interjurisdictional compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
  - (f) To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, use, and dispose of

the same. At all times, the commission must strive to avoid any appearance of impropriety or conflict of interest;

(g) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed. At all times, the commission must strive to avoid any appearance of impropriety or conflict of interest;

(h) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(i) To establish a budget and make expenditures;

(j) To borrow money;

(k) To appoint committees, including advisory committees comprised of members, state regulators, state legislators, or their representatives, and consumer representatives, and other interested persons as designated in the psychology interjurisdictional compact and the bylaws;

(l) To provide and receive information from, and to cooperate with, law enforcement agencies;

(m) To adopt and use an official seal; and

(n) To perform other functions necessary or appropriate to achieve the purposes of the psychology interjurisdictional compact consistent with the state regulation of psychology licensure; temporary in-person, face-to-face practice; and telepsychology practice.

(5) The elected officers must serve as the executive board which may act on behalf of the commission according to the terms of the psychology interjurisdictional compact.

(a) The executive board must be comprised of six members:

(i) Five voting members who are elected from the current membership of the commission by the commission;

(ii) One ex officio, nonvoting member from the recognized membership organization composed of state and provincial psychology regulatory authorities.

(b) The ex officio member must have served as staff or member on a state psychology regulatory authority and must be selected by its respective organization.

(c) The commission may remove any member of the executive board as provided in the bylaws.

(d) The executive board must meet at least annually.

(e) The executive board has the following duties and responsibilities:

(i) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact states such as annual dues, and any other applicable fees;

(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 member states and provide compliance reports to the commission;

(vi) Establish additional committees as necessary; and

(vii) Other duties as provided in rules or bylaws.

(6)(a) The commission must 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 compact state or impose fees on other parties 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 must be allocated based upon a formula to be determined by the commission which must adopt rules binding upon all compact states.

(d) The commission may not incur obligations of any kind before securing the funds adequate to meet these obligations. It may not pledge the credit of any of the compact states, except by and with the authority of the compact state.

(e) The commission must keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

(7)(a) The members, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or 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. Nothing in this subsection may be construed to protect any such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(b) The commission must defend any member, officer, executive director, employee, or 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 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, if the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct. This subsection does not prohibit the person from retaining his or her own counsel.

(c) The commission must indemnify and hold harmless any member, officer, executive director, employee, or 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, if the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

NEW SECTION. **Sec. 12.** (1) The commission must exercise its rule-making powers under the criteria set forth in this section and the rules adopted under this section. Rules and amendments become binding as of the date specified in each rule or amendment.

(2) If a majority of the legislatures of the compact states reject a rule, by enactment of a statute or resolution in the same manner used to adopt the psychology interjurisdictional compact, the rule will have no further force and effect in any compact state.

(3) Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

(4) Before adoption of a final rule or rules by the commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the commission must file a notice of proposed rule making:

(a) On the website of the commission; and

(b) On the website of each compact state's psychology regulatory authority or the publication in which each state would otherwise publish proposed rules.

(5) The notice of proposed rule making must include:

(a) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(b) The text of the proposed rule or amendment and the reason for the proposed rule;

(c) A request for comments on the proposed rule from any interested person; and

(d) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(6) Before adoption of a proposed rule, the commission must allow persons to submit written data, facts, opinions, and arguments, which must be made available to the public.

(7) The commission must grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(a) At least 25 persons who submit comments independently of each other;

(b) A governmental subdivision or agency; or

(c) A duly appointed person in an association that has at least 25 members.

(8) If a hearing is held on the proposed rule or amendment, the commission must publish the place, time, and date of the scheduled public hearing.

(a) All persons wishing to be heard at the hearing must notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(b) Hearings must be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(c) No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript must bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection does not preclude the commission from making a transcript or recording of the hearing if it so chooses.



(d) This section does not require a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(9) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission must consider all written and oral comments received.

(10) The commission must, by majority vote of all members, take final action on the proposed rule and must determine the effective date of the rule, if any, based on the rule making record and the full text of the rule.

(11) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with adoption of the proposed rule without a public hearing.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, if the usual rule-making procedures provided in the psychology interjurisdictional compact and in this section are retroactively applied to the rule as soon as reasonably possible, in no event more than 90 days after the effective date of the rule. For the purposes of this subsection, 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 compact state funds;
- (c) Meet a deadline for the adoption of an administrative 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 or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions must be posted on the website of the commission. The revision is 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 must be made in writing and delivered to the chair of the commission before 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.

**NEW SECTION. Sec. 13.** (1)(a) The executive, legislative, and judicial branches of state government in each compact state must enforce the psychology interjurisdictional compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules adopted under this compact have standing as statutory law.

(b) All courts must take judicial notice of the compact and the rules in any judicial or administrative proceeding in a compact state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

(c) The commission must receive service of process in any such proceeding and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or rules adopted under this compact.

(2)(a) If the commission determines that a compact state has defaulted in the performance of its obligations or responsibilities under the psychology interjurisdictional compact or rules adopted under this compact, the commission must:

(i) Provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default, or any other action to be taken by the commission; and

(ii) Provide remedial training and specific technical assistance regarding the default.

(b) If a state in default fails to remedy the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compact states, and all rights, privileges, and benefits conferred by this compact are terminated on the effective date of the termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(c) 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 termination must be submitted by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the compact states.

(d) A compact state which has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations which extend beyond the effective date of termination.

(e) The commission shall not bear any costs incurred by the state which is found to be in default or which has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(f) The defaulting state may appeal the action of the commission by petitioning the United States district court for the state of Georgia or the federal district where the compact has its principal offices. The prevailing member must be awarded all costs of the litigation, including reasonable attorneys' fees.

(3)(a) Upon request by a compact state, the commission must attempt to resolve disputes related to the compact that arise among compact states and between compact and noncompact states.

(b) The commission must adopt a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

(4)(a) The commission, in the reasonable exercise of its discretion, must enforce the provisions and rules of the psychology interjurisdictional compact.

(b) By majority vote, the commission may initiate legal action in the United States district court for the state of Georgia or the federal district where the compact has its principal offices against a compact state in default to enforce compliance with the provisions of the compact and its adopted rules and bylaws. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing member must be awarded all costs of such litigation, including reasonable attorneys' fees.

(c) The remedies in this section are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

**NEW SECTION. Sec. 14.** (1) This chapter takes effect on the date on which the compact is enacted into law in the seventh compact state. The provisions that become effective at that time are limited to the powers granted to the commission relating to the assembly and the adoption of rules. Thereafter, the commission must meet and exercise rule-making powers necessary to the implementation and administration of the compact.

(2) Any state which joins the compact subsequent to the commission's initial adoption of the rules are subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule which has been previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.

(3) Any compact state may withdraw from this compact by enacting a statute repealing the compact.

(a) A compact state's withdrawal does not take effect until six months after enactment of the repealing statute.

(b) Withdrawal does not affect the continuing requirements of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of this chapter before the effective date of withdrawal.

(4) Nothing contained in the psychology interjurisdictional compact may be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a noncompact state which does not conflict with the provisions of this compact.

(5) This compact may be amended by the compact states. No amendment to this compact becomes effective and binding upon any compact state until it is enacted into the law of all compact states.

**NEW SECTION. Sec. 15.** The psychology interjurisdictional compact must be liberally construed so as to effectuate the purposes of the compact. If the compact is held to be contrary to the constitution of any state member to the compact, the compact remains in full force and effect as to the remaining compact states.

**NEW SECTION. Sec. 16.** To the extent necessary to implement this act, the examining board of psychology is authorized to adopt rules necessary to implement the psychology interjurisdictional compact and the department of health is authorized to adopt rules to establish fees pursuant to RCW 43.70.250.

**NEW SECTION. Sec. 17.** The department of health must provide written notice of the effective date of section 14 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

**NEW SECTION. Sec. 18.** Sections 1 through 17 of this act constitute a new chapter in Title 18 RCW.

Passed by the House February 9, 2022.

Passed by the Senate February 25, 2022.

Approved by the Governor March 4, 2022.

Filed in Office of Secretary of State March 4, 2022.

CHAPTER 6

[House Bill 1798]

LEGISLATIVE COMMITTEE ON ECONOMIC DEVELOPMENT AND INTERNATIONAL RELATIONS—POWERS—STATE TOURISM SLOGAN

AN ACT Relating to powers of the legislative committee on economic development and international relations; and amending RCW 43.15.070.

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

**Sec. 1.** RCW 43.15.070 and 2020 c 114 s 22 are each amended to read as follows:

The committee or its subcommittees are authorized to study and review economic development issues with special emphasis on international trade, tourism, investment, and industrial development, and to assist the legislature in developing a comprehensive and consistent economic development policy. The issues under review by the committee shall include, but not be limited to:

(1) Evaluating existing state policies, laws, and programs which promote or affect economic development with special emphasis on those concerning international trade, tourism, and investment and determine their cost-effectiveness and level of cooperation with other public and private agencies;

(2) Monitoring economic trends, and developing for review by the legislature such state responses as may be deemed effective and appropriate;

(3) Monitoring economic development policies and programs of other states and nations and evaluating their effectiveness;

(4) Determining the economic impact of international trade, tourism, and investment upon the state's economy;

(5) Assessing the need for and effect of federal, regional, and state cooperation in economic development policies and programs;

(6) Evaluating opportunities to collaborate with public and private agencies in achieving Washington state's international relations objectives;

~~(7) ((Studying and adopting any state tourism slogan or tagline recommended by the Washington tourism marketing authority established in RCW 43.384.020;~~

~~(8)))~~ Designating official legislative trade delegations and nominating legislators for inclusion in official trade delegations organized by the office of international relations and protocol;

~~((9)))~~ (8) Proposing potential sister-state relationships to be submitted to the governor for approval; and

~~((10)))~~ (9) Developing and evaluating legislative proposals concerning the issues specified in this section.

Passed by the House January 28, 2022.

Passed by the Senate February 25, 2022.

Approved by the Governor March 4, 2022.

Filed in Office of Secretary of State March 4, 2022.

## CHAPTER 7

[Substitute House Bill 1878]

## SCHOOL MEALS—COMMUNITY ELIGIBILITY PROVISION

AN ACT Relating to increasing public school participation in the community eligibility provision of the United States department of agriculture; amending RCW 28A.235.300; creating a new section; and declaring an emergency.

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

**Sec. 1.** RCW 28A.235.300 and 2020 c 288 s 3 are each amended to read as follows:

(1)(a) Except as provided otherwise by this section, each public school ~~((with students in or below grade eight))~~ that has an identified student percentage of at least ~~((sixty-two and one-half))~~ 40 percent, or an identified student percentage of less than 40 percent if authorized by federal law, as determined annually by April 1st, must participate in the United States department of agriculture's community eligibility provision in the subsequent school year and throughout the duration of the community eligibility provision's four-year cycle.

(b) School districts, to the extent practicable, shall group public schools for purposes of maximizing the number of public schools eligible to participate in the community eligibility provision. Individual schools participating in a group may have less than 40 percent identified students, provided the average identified student percentage for the group is at least 40 percent.

(2) ~~((Schools))~~ Public schools that, through an arrangement with a local entity, provide meals to all students and at no costs to the students are exempt from the requirements of this section.

(3) 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 public schools and school districts.

(4) For the purposes of this section, "identified student" means a student who is directly certified for free school meals based on the student's participation in other means-tested assistance programs, and students who are categorically eligible for free school meals without an application and not subject to income verification.

NEW SECTION. Sec. 2. If specific funding for the purposes of section 1 of this act, referencing section 1 of this act by bill or chapter number and section number, is not provided by June 30, 2022, in the omnibus operating appropriations act, section 1 of this act is null and void.

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 House February 10, 2022.

Passed by the Senate February 25, 2022.

Approved by the Governor March 4, 2022.

Filed in Office of Secretary of State March 4, 2022.

## CHAPTER 8

[House Bill 1899]

## DEPARTMENT OF FINANCIAL INSTITUTIONS—INFORMATION CONFIDENTIALITY

AN ACT Relating to confidentiality of certain data shared with the department of financial institutions; reenacting and amending RCW 42.56.400; and adding a new section to chapter 43.320 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 43.320 RCW to read as follows:

(1) Information provided to the department of financial institutions by an agency of another state or the federal government, or regulatory association comprised of members of financial regulatory agencies, to the extent such information is confidential or exempt from disclosure under specific federal law or the specific laws of another state, shall be exempt from disclosure under chapter 42.56 RCW.

(2) The information in subsection (1) of this section is not exempt when included in records prepared by the department that represent agency action, as defined in RCW 34.05.010.

(3) For the purpose of regulating financial institutions, the director of financial institutions or the director's designee may enter into agreements governing the sharing, receiving, and use of documents, materials, or other information consistent with this section and chapter 42.56 RCW.

**Sec. 2.** RCW 42.56.400 and 2020 c 243 s 4 and 2020 c 240 s 9 are each reenacted and amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment

advisers under RCW 21.20.100, and information received under section 1 of this act, all of which ((~~is~~)) are confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Documents, materials, or information obtained or provided by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and 48.31B.036, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275;

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017;

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5);

(24) Documents, materials, or information obtained by the insurance commissioner under chapter 48.05A RCW;

(25) Documents, materials, or information obtained by the insurance commissioner under RCW 48.74.025, 48.74.028, 48.74.100(6), 48.74.110(2) (b) and (c), and 48.74.120 to the extent such documents, materials, or information independently qualify for exemption from disclosure as documents, materials, or information in possession of the commissioner pursuant to a financial conduct examination and exempt from disclosure under RCW 48.02.065;

(26) Nonpublic personal health information obtained by, disclosed to, or in the custody of the insurance commissioner, as provided in RCW 48.02.068;

(27) Data, information, and documents obtained by the insurance commissioner under RCW 48.02.230;

(28) Documents, materials, or other information, including the corporate annual disclosure obtained by the insurance commissioner under RCW 48.195.020;

(29) Findings and orders disapproving acquisition of a trust institution under RCW 30B.53.100(3);

(30) All claims data, including health care and financial related data received under RCW 41.05.890, received and held by the health care authority; and

(31) Contracts not subject to public disclosure under RCW 48.200.040 and 48.43.731.

Passed by the House February 10, 2022.

Passed by the Senate February 25, 2022.

Approved by the Governor March 4, 2022.

Filed in Office of Secretary of State March 4, 2022.

## CHAPTER 9

[Substitute Senate Bill 5252]

### SCHOOL DISTRICTS—CONSULTATION WITH TRIBES

AN ACT Relating to school district consultation with local tribes; amending RCW 28A.345.070; and adding a new section to chapter 28A.300 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The legislature recognizes that federal law requires some school districts to consult with federally recognized tribes on issues affecting American Indian and Alaska Native students. Under the federal every student succeeds act, this consultation requirement is intended to "ensure timely and meaningful consultation on issues affecting American Indian and Alaska Native students."



The legislature acknowledges that many school district staff have not had the opportunity to learn how to engage in meaningful consultation as required by the federal law and recognizes that additional training opportunities for school directors and school district staff are needed. The legislature finds that ensuring the federal consultation requirements are implemented in a meaningful way will contribute towards helping create a more inclusive educational environment that supports long-term success for all native students.

(2)(a) The office of the superintendent of public instruction, the office of native education in conjunction with the Washington state Native American education advisory committee, and the Washington state school directors' association shall collaborate, at a minimum, with the tribal leaders congress on education, and any other affected federally recognized tribes that express interest in participating, to develop a tribal consultation training and schedule for purposes of assisting school district board directors and staff in understanding how to engage in the consultation process required under Title VI of the federal every student succeeds act (P.L. 114-95, 20 U.S.C. Sec. 10001 et seq., 20 U.S.C. 6301 et seq.).

(b) The tribal consultation training and schedule created under this section shall be offered by the office of native education in the office of the superintendent of public instruction.

(c) The tribal consultation training and schedule must be developed and finalized by January 1, 2023.

(d) The tribal consultation training must incorporate, at a minimum, the following issues:

(i) Identification of native students, including federal identification guidelines for American Indian and Alaska Native students;

(ii) Data sharing from school districts to federally recognized tribes; and

(iii) Implementation of the tribal history, culture, and government curriculum under RCW 28A.320.170.

(e) The training must be made available to all school district directors and educational service district board members, and it is encouraged that the training also be included in onboarding training for all new school district directors and educational service district board members.

(3)(a) Beginning September 1, 2024, school board members, superintendents, and any other staff at school districts that are required to perform tribal consultation under Title VI of the federal every student succeeds act (P.L. 114-95, 20 U.S.C. Sec. 1001 et seq., 20 U.S.C. 6301 et seq.) must take and certify completion of the tribal consultation training created under this section.

(b) All individuals required to take the tribal consultation training under this section must, at a minimum, renew the certification of completion of the training every three years.

(4) The office of the superintendent of public instruction shall adopt rules to implement this section.

**Sec. 2.** RCW 28A.345.070 and 2005 c 205 s 2 are each amended to read as follows:

(1) Beginning in ~~((2006))~~ 2023, ~~((and at least once annually through 2010,))~~ the Washington state school directors' association ~~((is encouraged to))~~ shall convene ~~((regional))~~ annual meetings regionally and invite the tribal councils

from the federally recognized tribes in the region for the purpose of establishing government-to-government relationships and dialogue between tribal councils of the federally recognized tribes and school district boards of directors. Meetings are encouraged to be in person, but may be conducted virtually if cost or other factors impact participants' ability to travel or meet in person. Participants in these meetings should discuss issues of mutual concern, and should work to:

(a) Identify the extent and nature of the achievement gap and strategies necessary to close it;

(b) ~~((Increase mutual awareness and understanding of the importance of accurate, high-quality curriculum materials about the history, culture, and government of local tribes))~~ Emphasize the importance of creating an inclusive educational environment where all native students will receive educational resources and support required to have the opportunity to succeed in the pursuit of their educational goals; and

(c) ~~((Encourage))~~ Ensure school boards ~~((to identify and adopt))~~ understand the importance of identifying and adopting curriculum that includes ~~((tribal))~~ federally recognized tribes' experiences and perspectives, so that ~~((Indian))~~ native students are more engaged and learn more successfully, and so that all students learn about the history, culture, government, and experiences of their Indian peers and neighbors.

(2) Meetings held regionally must also include discussions of:

(a) Tribal consultation training and training requirements created under section 1 of this act;

(b) Identification of native students, including federal identification guidelines for American Indian and Alaska Native students;

(c) Data sharing from school districts to federally recognized tribes; and

(d) Consultations between individual school boards and local federally recognized tribes.

(3) By December 1, ~~((2008))~~ 2024, and every two years thereafter through ~~((2012))~~ 2028, the school directors' association shall report to the education committees of the legislature regarding the progress made in the development of effective government-to-government relations, the narrowing of the achievement gap, and the identification and adoption of curriculum regarding tribal history, culture, and government. The report shall include information about any obstacles encountered, and any strategies under development to overcome them.

(4) The school directors' association shall, at a minimum, partner with the office of native education within the office of the superintendent of public instruction to gather data for the purposes of the report required in subsection (3) of this section.

Passed by the Senate February 10, 2022.

Passed by the House February 26, 2022.

Approved by the Governor March 4, 2022.

Filed in Office of Secretary of State March 4, 2022.

## CHAPTER 10

[Substitute Senate Bill 5546]

## INSULIN—HEALTH PLAN COVERAGE

AN ACT Relating to insulin affordability; amending RCW 41.05.017; reenacting and amending RCW 48.43.780; providing an effective date; and providing an expiration date.

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

**Sec. 1.** RCW 48.43.780 and 2020 c 346 s 5 and 2020 c 245 s 1 are each reenacted and amended to read as follows:

(1) Except as required in subsection (2) of this section, a health plan issued or renewed on or after January 1, (~~2021~~) 2023, that provides coverage for prescription insulin drugs for the treatment of diabetes must cap the total amount that an enrollee is required to pay for a covered insulin drug at an amount not to exceed (~~(one hundred dollars)~~) \$35 per (~~(thirty-day)~~) 30-day supply of the drug. Prescription insulin drugs must be covered without being subject to a deductible, and any cost sharing paid by an enrollee must be applied toward the enrollee's deductible obligation.

(2) If the federal internal revenue service removes insulin from the list of preventive care services which can be covered by a qualifying health plan for a health savings account before the deductible is satisfied, for a health plan that provides coverage for prescription insulin drugs for the treatment of diabetes and is offered as a qualifying health plan for a health savings account, the carrier must establish the plan's cost sharing for the coverage of prescription insulin for diabetes at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions from his or her health savings account under internal revenue service laws and regulations. The office of the insurance commissioner must provide written notice of the change in internal revenue service guidance to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the office.

(3) This section expires January 1, (~~2023~~) 2024.

**Sec. 2.** RCW 41.05.017 and 2021 c 280 s 2 are each amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545, 48.43.550, 70.02.110, 70.02.900, 48.43.190, 48.43.083, 48.43.0128, 48.43.780, and chapter 48.49 RCW.

**NEW SECTION. Sec. 3.** Section 1 of this act takes effect January 1, 2023.

Passed by the Senate February 8, 2022.

Passed by the House February 26, 2022.

Approved by the Governor March 4, 2022.

Filed in Office of Secretary of State March 4, 2022.

## CHAPTER 11

[Substitute Senate Bill 5564]

## EMPLOYEE ASSISTANCE PROGRAMS—CONFIDENTIALITY

AN ACT Relating to protecting the confidentiality of employees using employee assistance programs; and adding a new section to chapter 49.44 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 49.44 RCW to read as follows:

(1)(a) It is unlawful for an employer to obtain individually identifiable information regarding an employee's participation in an employee assistance program. Individually identifiable information gathered in the process of conducting an employee assistance program must be kept confidential.

(b) Subsection (1)(a) of this section does not apply to:

(i) Authorized disclosures under RCW 41.04.730;

(ii) Disclosures to an employer regarding an employee's attendance in an employee assistance program, which the employee was required to attend as a condition of continued employment; and

(ii) Disclosures that are:

(A) Made to prevent or lessen a perceived threat to the health or safety of an individual or the public; or

(B) Permitted or required under RCW 18.225.105, 70.02.050, or 71.05.120.

(2) An employee's participation or nonparticipation in an employee assistance program must not be a factor in a decision affecting an employee's job security, promotional opportunities, corrective or disciplinary action, or other employment rights.

Passed by the Senate February 9, 2022.

Passed by the House February 26, 2022.

Approved by the Governor March 4, 2022.

Filed in Office of Secretary of State March 4, 2022.

## CHAPTER 12

[House Bill 1051]

## RESEARCH UNIVERSITIES—BOARD OF REGENTS—FACULTY MEMBER

AN ACT Relating to adding a faculty member to the board of regents at the research universities; and amending RCW 28B.20.100 and 28B.30.100.

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

**Sec. 1.** RCW 28B.20.100 and 2006 c 78 s 1 are each amended to read as follows:

(1)(a) The governance of the University of Washington shall be vested in a board of regents to consist of ~~((ten))~~ 11 members, one of whom shall be a student and one of whom shall be a full-time or emeritus member of the faculty.

(b) The members shall be appointed by the governor with the consent of the senate, and, except for the student member and faculty member, shall hold their offices for a term of six years from the first day of October and until their successors shall be appointed and qualified.

(c) The governor shall select the student member from a list of candidates, of at least three and not more than five, submitted by the governing body of the associated students. ~~((They shall be appointed by the governor with the consent of the senate, and, except for the student member, shall hold their offices for a term of six years from the first day of October and until their successors shall be appointed and qualified.))~~ The student member shall hold ~~((his or her))~~ the office for a term of one year from the first day of July until the first day of July of the following year or until ~~((his or her))~~ a successor is appointed and qualified, whichever is later. The student member shall be a full-time student in good standing at the university at the time of appointment.

(d) The governor shall select the faculty member from a list of candidates, of at least two and not more than five, submitted by the faculty senate. The faculty member shall hold the office for a term of three years from the first day of October and until a successor is appointed and qualified.

(2) Six members of said board shall constitute a quorum for the transaction of business. In the case of a vacancy, or when an appointment is made after the date of the expiration of a term, the governor shall fill the vacancy for the remainder of the term of the regent whose office has become vacant or expired.

(3) Except for the term of the student member and the faculty member, no more than the terms of two members will expire simultaneously on the last day of September in any one year.

(4) A student appointed under this section ~~((shall excuse himself or herself from participation or voting))~~ may not participate or vote on matters relating to the hiring, discipline, or tenure of faculty members and personnel. A faculty member appointed under this section may not participate or vote on matters related to the hiring, discipline, or tenure of specific faculty members.

**Sec. 2.** RCW 28B.30.100 and 2006 c 78 s 2 are each amended to read as follows:

(1)(a) The governance of Washington State University shall be vested in a board of regents to consist of ~~((ten))~~ 11 members, one of whom shall be a student and one of whom shall be a full-time or emeritus member of the faculty.

(b) The members shall be appointed by the governor with the consent of the senate, and, except for the student member and faculty member, shall hold their offices for a term of six years from the first day of October and until their successors shall be appointed and qualified.

(c) The governor shall select the student member from a list of candidates, of at least three and not more than five, submitted by the governing body of the associated students. ~~((They shall be appointed by the governor, by and with the consent of the senate and, except for the student member, shall hold their offices for a term of six years from the first day of October and until their successors are appointed and qualified.))~~ The student member shall hold ~~((his or her))~~ the office for a term of one year from the first day of July until the first day of July of the following year or until ~~((his or her))~~ a successor is appointed and qualified, whichever is later. The student member shall be a full-time student in good standing at the university at the time of appointment.

(d) The governor shall select the faculty member from a list of candidates, of at least two and not more than five, submitted by the faculty senate. The faculty member shall hold the office for a term of three years from the first day of October and until a successor is appointed and qualified.

(2) Six members of said board shall constitute a quorum for the transaction of business. In the case of a vacancy or when an appointment is made after the date of the expiration of a term, the governor shall fill the vacancy for the remainder of the term of the regent whose office has become vacant or expired.

(3) Except for the term of the student member and the faculty member, no more than the terms of two members will expire simultaneously on the last day of September in any one year.

(4) Each regent shall, before entering upon the discharge of his respective duties as such, execute a good and sufficient bond to the state of Washington, with two or more sufficient sureties, residents of the state, or with a surety company licensed to do business within the state, in the penal sum of not less than five thousand dollars, conditioned for the faithful performance of his duties as such regent: PROVIDED, That the university shall pay any fees incurred for any such bonds for their board members.

(5) A student appointed under this section (~~(shall excuse himself or herself from participation or voting)~~) may not participate or vote on matters relating to the hiring, discipline, or tenure of faculty members and personnel. A faculty member appointed under this section may not participate or vote on matters related to the hiring, discipline, or tenure of specific faculty members.

Passed by the House February 15, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 13

[Substitute House Bill 1052]

### GROUP INSURANCE CONTRACTS—PERFORMANCE STANDARDS

AN ACT Relating to group insurance contract performance standards; amending RCW 48.30.140 and 48.30.150; adding a new section to chapter 48.30 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 align the insurance code and performance-based contracting to ensure the continued practice of using performance standards and performance guarantees in group insurance contracts, including those entered into by the health care authority.

NEW SECTION. Sec. 2. A new section is added to chapter 48.30 RCW to read as follows:

(1) For purposes of this section, "performance standard" means a contractual provision in a group insurance contract that establishes a specific standard for the insurer's or health carrier's performance of an obligation in the contract, and under which the insurer or health carrier is required to remit a penalty payment, based on a percentage of the premium or a set dollar amount, to the group policyholder for the next policy term if the insurer or health carrier fails to comply with the standard. Group policyholders and insurers or health carriers may calculate the amount of the penalty based on a percentage of the overall premium owed to the insurer or health carrier by the policyholder.

(2) Remittance of a performance payment to the group policyholder in compliance with this section does not constitute a premium under RCW

48.18.170 and 48.43.005. Nothing in this section prevents the health care authority from including performance standards in contracts.

(3) If a group insurance contract includes any performance standards, the insurer or health carrier must describe the performance standards in the group insurance contract and file the contract with the commissioner.

(4) Remittance of a performance payment to the group policyholder in compliance with this section must not be considered a return premium for purposes of RCW 48.14.020 and 48.14.0201.

(5) This section does not apply to small groups as defined in RCW 48.43.005.

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

(7) For the purposes of this section, "health carrier" has the meaning provided in RCW 48.43.005.

**Sec. 3.** RCW 48.30.140 and 2020 c 197 s 1 are each amended to read as follows:

(1) Except to the extent provided for in an applicable filing with the commissioner then in effect, no insurer, insurance producer, or title insurance agent shall, as an inducement to insurance, or after insurance has been effected, directly or indirectly, offer, promise, allow, give, set off, or pay to the insured or to any employee of the insured, any rebate, discount, abatement, or reduction of premium or any part thereof named in any insurance contract, or any commission thereon, or earnings, profits, dividends, or other benefit, or any other valuable consideration or inducement whatsoever which is not expressly provided for in the policy.

(2) Subsection (1) of this section shall not apply as to commissions paid to a licensed insurance producer, or title insurance agent for insurance placed on that person's own property or risks.

(3) This section shall not apply to the allowance by any marine insurer, or marine insurance producer, to any insured, in connection with marine insurance, of such discount as is sanctioned by custom among marine insurers as being additional to the insurance producer's commission.

(4) This section shall not apply to advertising or promotional programs conducted by insurers or insurance producers whereby prizes, goods, wares, gift cards, gift certificates, or merchandise, not exceeding one hundred dollars in value per person in the aggregate in any twelve-month period, are given to all insureds or prospective insureds under similar qualifying circumstances. This subsection does not apply to title insurers or title insurance agents.

(5) This section does not apply to an offset or reimbursement of all or part of a fee paid to an insurance producer as provided in RCW 48.17.270.

(6)(a) Subsection (1) of this section shall not be construed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract containing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW 48.43.005; and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

(7) Subsection (1) of this section does not apply to a payment by an insurer to offset documented expenses incurred by a group policyholder in changing coverages from one insurer to another. Insurers shall describe any such payment in the group insurance policy or in an applicable filing with the commissioner. If an implementation credit is given to a group, the implementation credit is part of the premium for the purposes of RCW 48.14.020 and 48.14.0201. This exception to subsection (1) of this section does not apply to "medicare supplemental insurance" or "medicare supplemental insurance policies" as defined in chapter 48.66 RCW.

(8) Subsection (7) of this section does not apply to small groups as defined in RCW 48.43.005.

(9) Subsection (1) of this section does not apply to products or services related to any policy of life insurance that are intended to incent behavioral changes that improve the health and reduce the risk of death of the insured.

(10) Subsection (1) of this section does not apply to a performance standard offered or provided in compliance with section 2 of this act.

**Sec. 4.** RCW 48.30.150 and 2020 c 197 s 2 are each amended to read as follows:

(1) No insurer, insurance producer, title insurance agent, or other person shall, as an inducement to insurance, or in connection with any insurance transaction, provide in any policy for, or offer, or sell, buy, or offer or promise to buy or give, or promise, or allow to, or on behalf of, the insured or prospective insured in any manner whatsoever:

(a) Any shares of stock or other securities issued or at any time to be issued on any interest therein or rights thereto; or

(b) Any special advisory board contract, or other contract, agreement, or understanding of any kind, offering, providing for, or promising any profits or special returns or special dividends; or

(c) Any prizes, goods, wares, gift cards, gift certificates, or merchandise of an aggregate value in excess of one hundred dollars per person in the aggregate in any consecutive twelve-month period. This subsection (1)(c) does not apply to title insurers or title insurance agents.

(2) Subsection (1) of this section shall not be deemed to prohibit the sale or purchase of securities as a condition to or in connection with surety insurance insuring the performance of an obligation as part of a plan of financing found by the commissioner to be designed and operated in good faith primarily for the purpose of such financing, nor shall it be deemed to prohibit the sale of redeemable securities of a registered investment company in the same transaction in which life insurance is sold.

(3)(a) Subsection (1) of this section shall not be deemed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract providing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW 48.43.005; and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).



(4) Subsection (1) of this section does not prohibit an insurer from issuing any payment to offset documented expenses incurred by a group policyholder in changing coverages from one insurer to another as provided in RCW 48.30.140. If an implementation credit is given to a group, the implementation credit is part of the premium for the purposes of RCW 48.14.020 and 48.14.0201. This exception to subsection (1) of this section does not apply to "medicare supplemental insurance" or "medicare supplemental insurance policies" as defined in chapter 48.66 RCW.

(5) Subsection (4) of this section does not apply to small groups as defined in RCW 48.43.005.

(6) Subsection (1) of this section does not apply to products or services related to any policy of life insurance that are intended to incent behavioral changes that improve the health and reduce the risk of death of the insured.

(7) Subsection (1) of this section does not apply to a performance standard offered or provided in compliance with section 2 of this act.

Passed by the House January 14, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 14

[Substitute House Bill 1124]

### GLUCOSE MONITORING AND TESTING—NURSE DELEGATION

AN ACT Relating to nurse delegation of glucose monitoring, glucose testing, and insulin injections; amending RCW 18.79.260; reenacting and amending RCW 18.79.260; providing an effective date; and providing an expiration date.

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

**Sec. 1.** RCW 18.79.260 and 2012 c 164 s 407, 2012 c 13 s 3, and 2012 c 10 s 37 are each reenacted and amended to read as follows:

(1) A registered nurse under his or her license may perform for compensation nursing care, as that term is usually understood, to individuals with illnesses, injuries, or disabilities.

(2) A registered nurse may, at or under the general direction of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, naturopathic physician, optometrist, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, advanced registered nurse practitioner, or midwife acting within the scope of his or her license, administer medications, treatments, tests, and inoculations, whether or not the severing or penetrating of tissues is involved and whether or not a degree of independent judgment and skill is required. Such direction must be for acts which are within the scope of registered nursing practice.

(3) A registered nurse may delegate tasks of nursing care to other individuals where the registered nurse determines that it is in the best interest of the patient.

(a) The delegating nurse shall:

- (i) Determine the competency of the individual to perform the tasks;
- (ii) Evaluate the appropriateness of the delegation;

(iii) Supervise the actions of the person performing the delegated task; and  
(iv) Delegate only those tasks that are within the registered nurse's scope of practice.

(b) A registered nurse, working for a home health or hospice agency regulated under chapter 70.127 RCW, may delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care.

(c) Except as authorized in (b) or (e) of this subsection, a registered nurse may not delegate the administration of medications. Except as authorized in (e) or (f) of this subsection, a registered nurse may not delegate acts requiring substantial skill, and may not delegate piercing or severing of tissues. Acts that require nursing judgment shall not be delegated.

(d) No person may coerce a nurse into compromising patient safety by requiring the nurse to delegate if the nurse determines that it is inappropriate to do so. Nurses shall not be subject to any employer reprisal or disciplinary action by the nursing care quality assurance commission for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise patient safety.

(e) For delegation in community-based care settings or in-home care settings, a registered nurse may delegate nursing care tasks only to registered or certified nursing assistants under chapter 18.88A RCW or home care aides certified under chapter 18.88B RCW. Simple care tasks such as blood pressure monitoring, personal care service, diabetic insulin device set up, verbal verification of insulin dosage for sight-impaired individuals, or other tasks as defined by the nursing care quality assurance commission are exempted from this requirement.

(i) "Community-based care settings" includes: Community residential programs for people 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.

(ii) "In-home care settings" include an individual's place of temporary or permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings as defined in (e)(i) of this subsection.

(iii) Delegation of nursing care tasks in community-based care settings and in-home care settings is only allowed for individuals who have a stable and predictable condition. "Stable and predictable condition" means a situation in which the individual's clinical and behavioral status is known and does not require the frequent presence and evaluation of a registered nurse.

(iv) The determination of the appropriateness of delegation of a nursing task is at the discretion of the registered nurse. Other than delegation of the administration of insulin by injection for the purpose of caring for individuals with diabetes, the administration of medications by injection, sterile procedures, and central line maintenance may never be delegated.

(v) When delegating insulin injections under this section, the registered nurse delegator must instruct the individual regarding proper injection procedures and the use of insulin, demonstrate proper injection procedures, and

must supervise and evaluate the individual performing the delegated task (~~((weekly during the first four weeks of delegation of insulin injections))~~) as required by the commission by rule. If the registered nurse delegator determines that the individual is competent to perform the injection properly and safely, supervision and evaluation shall occur at (~~((least every ninety days thereafter))~~) an interval determined by the commission by rule.

(vi)(A) The registered nurse shall verify that the nursing assistant or home care aide, as the case may be, has completed the required core nurse delegation training required in chapter 18.88A or 18.88B RCW prior to authorizing delegation.

(B) Before commencing any specific nursing tasks authorized to be delegated in this section, a home care aide must be certified pursuant to chapter 18.88B RCW and must comply with RCW 18.88B.070.

(vii) The nurse is accountable for his or her own individual actions in the delegation process. Nurses acting within the protocols of their delegation authority are immune from liability for any action performed in the course of their delegation duties.

(viii) Nursing task delegation protocols are not intended to regulate the settings in which delegation may occur, but are intended to ensure that nursing care services have a consistent standard of practice upon which the public and the profession may rely, and to safeguard the authority of the nurse to make independent professional decisions regarding the delegation of a task.

(f) The delegation of nursing care tasks only to registered or certified nursing assistants under chapter 18.88A RCW or to home care aides certified under chapter 18.88B RCW may include glucose monitoring and testing.

(g) The nursing care quality assurance commission may adopt rules to implement this section.

(4) Only a person licensed as a registered nurse may instruct nurses in technical subjects pertaining to nursing.

(5) Only a person licensed as a registered nurse may hold herself or himself out to the public or designate herself or himself as a registered nurse.

**Sec. 2.** RCW 18.79.260 and 2020 c 80 s 18 are each amended to read as follows:

(1) A registered nurse under his or her license may perform for compensation nursing care, as that term is usually understood, to individuals with illnesses, injuries, or disabilities.

(2) A registered nurse may, at or under the general direction of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, naturopathic physician, optometrist, podiatric physician and surgeon, physician assistant, advanced registered nurse practitioner, or midwife acting within the scope of his or her license, administer medications, treatments, tests, and inoculations, whether or not the severing or penetrating of tissues is involved and whether or not a degree of independent judgment and skill is required. Such direction must be for acts which are within the scope of registered nursing practice.

(3) A registered nurse may delegate tasks of nursing care to other individuals where the registered nurse determines that it is in the best interest of the patient.

(a) The delegating nurse shall:

(i) Determine the competency of the individual to perform the tasks;

(ii) Evaluate the appropriateness of the delegation;  
(iii) Supervise the actions of the person performing the delegated task; and  
(iv) Delegate only those tasks that are within the registered nurse's scope of practice.

(b) A registered nurse, working for a home health or hospice agency regulated under chapter 70.127 RCW, may delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care.

(c) Except as authorized in (b) or (e) of this subsection, a registered nurse may not delegate the administration of medications. Except as authorized in (e) or (f) of this subsection, a registered nurse may not delegate acts requiring substantial skill, and may not delegate piercing or severing of tissues. Acts that require nursing judgment shall not be delegated.

(d) No person may coerce a nurse into compromising patient safety by requiring the nurse to delegate if the nurse determines that it is inappropriate to do so. Nurses shall not be subject to any employer reprisal or disciplinary action by the nursing care quality assurance commission for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise patient safety.

(e) For delegation in community-based care settings or in-home care settings, a registered nurse may delegate nursing care tasks only to registered or certified nursing assistants under chapter 18.88A RCW or home care aides certified under chapter 18.88B RCW. Simple care tasks such as blood pressure monitoring, personal care service, diabetic insulin device set up, verbal verification of insulin dosage for sight-impaired individuals, or other tasks as defined by the nursing care quality assurance commission are exempted from this requirement.

(i) "Community-based care settings" includes: Community residential programs for people 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.

(ii) "In-home care settings" include an individual's place of temporary or permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings as defined in (e)(i) of this subsection.

(iii) Delegation of nursing care tasks in community-based care settings and in-home care settings is only allowed for individuals who have a stable and predictable condition. "Stable and predictable condition" means a situation in which the individual's clinical and behavioral status is known and does not require the frequent presence and evaluation of a registered nurse.

(iv) The determination of the appropriateness of delegation of a nursing task is at the discretion of the registered nurse. Other than delegation of the administration of insulin by injection for the purpose of caring for individuals with diabetes, the administration of medications by injection, sterile procedures, and central line maintenance may never be delegated.

(v) When delegating insulin injections under this section, the registered nurse delegator must instruct the individual regarding proper injection

procedures and the use of insulin, demonstrate proper injection procedures, and must supervise and evaluate the individual performing the delegated task (~~(weekly during the first four weeks of delegation of insulin injections)~~) as required by the commission by rule. If the registered nurse delegator determines that the individual is competent to perform the injection properly and safely, supervision and evaluation shall occur at (~~(least every ninety days thereafter)~~) an interval determined by the commission by rule.

(vi)(A) The registered nurse shall verify that the nursing assistant or home care aide, as the case may be, has completed the required core nurse delegation training required in chapter 18.88A or 18.88B RCW prior to authorizing delegation.

(B) Before commencing any specific nursing tasks authorized to be delegated in this section, a home care aide must be certified pursuant to chapter 18.88B RCW and must comply with RCW 18.88B.070.

(vii) The nurse is accountable for his or her own individual actions in the delegation process. Nurses acting within the protocols of their delegation authority are immune from liability for any action performed in the course of their delegation duties.

(viii) Nursing task delegation protocols are not intended to regulate the settings in which delegation may occur, but are intended to ensure that nursing care services have a consistent standard of practice upon which the public and the profession may rely, and to safeguard the authority of the nurse to make independent professional decisions regarding the delegation of a task.

(f) The delegation of nursing care tasks only to registered or certified nursing assistants under chapter 18.88A RCW or to home care aides certified under chapter 18.88B RCW may include glucose monitoring and testing.

(g) The nursing care quality assurance commission may adopt rules to implement this section.

(4) Only a person licensed as a registered nurse may instruct nurses in technical subjects pertaining to nursing.

(5) Only a person licensed as a registered nurse may hold herself or himself out to the public or designate herself or himself as a registered nurse.

NEW SECTION. Sec. 3. Section 1 of this act expires July 1, 2022.

NEW SECTION. Sec. 4. Section 2 of this act takes effect July 1, 2022.

Passed by the House January 12, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 15

[Engrossed House Bill 1165]

### CREDIT UNIONS—VARIOUS PROVISIONS

AN ACT Relating to the Washington credit union act; and amending RCW 31.12.005, 31.12.402, 31.12.404, 31.12.436, and 31.12.438.

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

**Sec. 1.** RCW 31.12.005 and 2017 c 61 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, as used in this chapter:

- (1) "Board" means the board of directors of a credit union.
- (2) "Board officer" means an officer of the board elected under RCW 31.12.265(1).
- (3) "Branch" of a credit union, out-of-state credit union, or foreign credit union means any facility that meets all of the following criteria:
  - (a) The facility is a staffed physical facility;
  - (b) The facility is owned or leased in whole or part by the credit union or its credit union service organization; and
  - (c) Deposits and withdrawals may be made at the facility.
- (4) "Capital" means a credit union's reserves, undivided earnings, and allowance for loan and lease losses, and other items that may be included under RCW 31.12.413 or by rule or order of the director.
- (5) "Credit union" means a credit union organized and operating under this chapter.
- (6) "Credit union service organization" means an organization that a credit union has invested in pursuant to RCW 31.12.436(1)(h), or a credit union service organization invested in by an out-of-state, federal, or foreign credit union.
- (7) "Department" means the department of financial institutions.
- (8) "Director" means the director of financial institutions.
- (9) "Federal credit union" means a credit union organized and operating under the laws of the United States.
- (10) "Financial institution" means any commercial bank, trust company, savings bank, or savings and loan association, whether state or federally chartered, and any credit union, out-of-state credit union, or federal credit union.
- (11) "Foreign credit union" means a credit union organized and operating under the laws of another country or other foreign jurisdiction.
- (12) "Insolvency" means:
  - (a) If, under United States generally accepted accounting principles, the recorded value of the credit union's assets are less than its obligations to its share account holders, depositors, creditors, and others; or
  - (b) If it is likely that the credit union will be unable to pay its obligations or meet its share account holders' and depositors' demands in the normal course of business.
- (13) "Loan" means any loan, overdraft line of credit, extension of credit, or lease, in whole or in part.
- (14) "Low-income member" means a member whose family income is not more than eighty percent of the median family income for the metropolitan statistical area where the member lives or for the national metropolitan area where the member lives, whichever is greater, or a member or potential member who earns not more than eighty percent of the total median earnings for individuals for the metropolitan statistical area where the member lives or for the national metropolitan area where the member lives, whichever is greater. For members living outside of a metropolitan statistical area, the department must apply the statewide or national nonmetropolitan area median family income or total median earnings for individuals.
- (15) "Material violation of law" means:
  - (a) If the credit union or person has violated a material provision of:
    - (i) Law;

(ii) Any cease and desist order issued by the director;

(iii) Any condition imposed in writing by the director in connection with the approval of any application or other request of the credit union; or

(iv) Any supervisory agreement, or any other written agreement entered into with the director;

(b) If the credit union or person has concealed any of the credit union's books, papers, records, or assets, or refused to submit the credit union's books, papers, records, or affairs for inspection to any examiner of the state or, as appropriate, to any examiner of the national credit union administration; or

(c) If a member of a credit union board of directors or supervisory committee, or an officer of a credit union, has breached his or her fiduciary duty to the credit union.

(16) "Net worth" means a credit union's capital, less the allowance for loan and lease losses.

(17) "Operating officer" means an employee of a credit union designated as an officer pursuant to RCW 31.12.265(2).

(18) "Organization" means a corporation, partnership, association, limited liability company, trust, or other organization or entity.

(19) "Out-of-state credit union" means a credit union organized and operating under the laws of another state or United States territory or possession.

(20) "Person" means an organization or a natural person including, but not limited to, a sole proprietorship.

(21) "Principally" or "primarily" means more than one-half.

(22) "Senior operating officer" includes:

(a) An operating officer who is a vice president or above; and

(b) Any employee who has policy-making authority.

(23) "Significantly undercapitalized" means a net worth to total assets ratio of less than four percent.

(24) "Small credit union" means a credit union with up to ten million dollars in total assets for the purposes of RCW 31.12.569. In any rule providing relief for small credit unions in RCW 31.12.516, the director shall determine an appropriate definition for the term based on the subject matter of the rule and shall include such definition in such rule.

(25) "Unsafe or unsound condition" means, but is not limited to:

(a) If the credit union is insolvent;

(b) If the credit union has incurred or is likely to incur losses that will deplete all or substantially all of its net worth;

(c) If the credit union is in imminent danger of losing its share and deposit insurance or guarantee; or

(d) If the credit union is significantly undercapitalized.

(26) "Unsafe or unsound practice" means any action, or lack of action, which is contrary to generally accepted standards of prudent operation, the likely consequences of which, if continued, would be abnormal risk of loss or danger to a credit union, its members, or an organization insuring or guaranteeing its shares and deposits.

**Sec. 2.** RCW 31.12.402 and 2011 c 303 s 6 are each amended to read as follows:

A credit union may:

(1) Issue shares to and receive deposits from its members in accordance with RCW 31.12.416;

(2) Make loans to its members in accordance with RCW 31.12.426 and 31.12.428;

(3) Pay dividends and interest to its members in accordance with RCW 31.12.418;

(4) Impose reasonable charges for the services it provides (~~(to its members)~~);

(5) Impose financing charges and reasonable late charges in the event of default on loans, subject to applicable law, and recover reasonable costs and expenses, including, but not limited to, collection costs, and reasonable attorneys' fees incurred both before and after judgment, incurred in the collection of sums due, if provided for in the note or agreement signed by the borrower;

(6) Acquire, lease, hold, assign, pledge, sell, or otherwise dispose of interests in personal property and in real property in accordance with RCW 31.12.438;

(7) Deposit and invest funds in accordance with RCW 31.12.436;

(8) Borrow money, up to a maximum of fifty percent of its total shares, deposits, and net worth;

(9) Discount or sell any of its assets, or purchase any or all of the assets of another credit union, out-of-state credit union, or federal credit union. However, a credit union may not discount or sell all, or substantially all, of its assets without the approval of the director;

(10) Accept deposits of deferred compensation of its members;

(11) Act as fiscal agent for and receive payments on shares and deposits from the federal government or this state, and any agency or political subdivision thereof;

(12) Engage in activities and programs as requested by the federal government, this state, and any agency or political subdivision thereof, when the activities or programs are not inconsistent with this chapter;

(13) Hold membership in credit unions, out-of-state credit unions, or federal credit unions and in organizations controlled by or fostering the interests of credit unions, including, but not limited to, a central liquidity facility organized under state or federal law;

(14) Pay additional dividends and interest to members, or an interest rate refund to borrowers;

(15) Enter into lease agreements, lease contracts, and lease-purchase agreements with members;

(16) Act as insurance agent or broker for the sale to members of:

(a) Group life, accident, health, and credit life and disability insurance; and

(b) Other insurance that other types of Washington state-chartered financial institutions are permitted to sell, on the same terms and conditions that these institutions are permitted to sell such insurance;

(17) Impose a reasonable service charge for the administration and processing of accounts that remain dormant for a period of time specified by the credit union;

(18) Establish and operate on-premises or off-premises electronic facilities;

(19) Enter into formal or informal agreements with another credit union for the purpose of fostering the development of the other credit union;



(20) Work with community leaders to develop and prioritize efforts to improve the areas where their members reside by making investments in the community through contributions to organizations that primarily serve either a charitable, social, welfare, or educational purpose, or are exempt from taxation pursuant to section 501(c)(3) of the internal revenue code;

(21) Limit the personal liability of its directors in accordance with provisions of its articles of incorporation that conform with RCW 23B.08.320;

(22) Indemnify its directors, supervisory committee members, officers, employees, and others in accordance with provisions of its articles of incorporation or bylaws that conform with RCW 23B.08.500 through 23B.08.600;

(23) Conduct a promotional contest of chance as authorized in RCW 9.46.0356(1)(b), as long as the conditions of RCW 9.46.0356(5) and ~~((30.22.260))~~ 30A.22.260 are complied with to the satisfaction of the director; ~~((and))~~

~~(24) Cash checks, money orders, and other payment instruments for members and persons who are eligible for membership in the credit union; and~~

~~(25) Exercise such incidental powers as are necessary or convenient to enable it to conduct the business of a credit union.~~

**Sec. 3.** RCW 31.12.404 and 2019 c 19 s 5 are each amended to read as follows:

(1) Notwithstanding any other provision of law, and in addition to all powers and authorities, express or implied, that a credit union has under the laws of this state, a credit union has the powers and authorities that a federal credit union had on December 31, 1993, or a subsequent date ~~((not later than July 28, 2019))~~ by the effective date of this section.

(2) Notwithstanding any other provision of law, and in addition to the powers and authorities, express or implied, that a credit union has under subsection (1) of this section, a credit union has the powers and authorities that a federal credit union has subsequent to ~~((July 28, 2019))~~ the effective date of this section, if the director finds that the exercise of the power and authority serves the convenience and advantage of members of credit unions, and maintains the fairness of competition and parity between credit unions and federal credit unions. However, a credit union must comply with RCW 31.12.408.

(3) Notwithstanding any other provision of law, and in addition to the powers and authorities, express or implied, that a credit union has under subsections (1) and (2) of this section, a credit union may exercise the powers and authorities that it would have if it were an out-of-state credit union. Any such power or authority is subject to regulation by the director. In exercising such power or authority, a credit union:

(a) Must comply with RCW 31.12.408;

(b) Is not granted the field of membership powers or authorities of any out-of-state credit union; and

(c) Must be able to exercise such power or authority consistent with the purposes of this chapter.

(4) Before exercising any power or authority afforded under subsection (3) of this section, a credit union must first notify the director of its intent to do so. This notice must be sent to the director by United States mail or by electronic means if the director accepts electronic delivery. If the director takes no action

on the request within thirty days of delivery of the notice, the right to exercise the power or authority is deemed granted, subject to the restrictions in subsection (3)(a) and (b) of this section. In order to grant the request, the director must find that:

(a) The request complies with subsection (3)(a), (b), and (c) of this section; and

(b) The exercise of such power or authority serves the convenience and advantage of members of credit unions and maintains the fairness of competition and parity between credit unions and out-of-state credit unions.

(5) The restrictions, limitations, and requirements applicable to specific powers or authorities of federal or out-of-state credit unions apply to credit unions exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to the specific exercise of the powers or authorities granted credit unions solely under this section.

(6) As used in this section, "powers and authorities" include, but are not limited to, powers and authorities in corporate governance matters.

**Sec. 4.** RCW 31.12.436 and 2019 c 19 s 6 are each amended to read as follows:

(1) A credit union may invest its funds in any of the following, as long as the investments are deemed prudent by the board:

(a) Loans held by credit unions, out-of-state credit unions, or federal credit unions; loans to members held by other lenders; and loans to nonmembers held by other lenders, with the approval of the director;

(b) Bonds, securities, or other investments that are fully guaranteed as to principal and interest by the United States government, and general obligations of this state and its political subdivisions;

(c) Obligations issued by corporations designated under 31 U.S.C. Sec. 9101, or obligations, participations or other instruments issued and guaranteed by the federal national mortgage association, federal home loan mortgage corporation, government national mortgage association, or other government-sponsored enterprise;

(d) Participations or obligations which have been subjected by one or more government agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States has been named to act as trustee;

(e) Share or deposit accounts of other financial institutions, the accounts of which are federally insured or insured or guaranteed by another insurer or guarantor approved by the director. The shares and deposits made by a credit union under this subsection (1)(e) may exceed the insurance or guarantee limits established by the organization insuring or guaranteeing the institution into which the shares or deposits are made;

(f) Common trust or mutual funds whose investment portfolios consist of securities issued or guaranteed by the federal government or an agency of the government;

(g) Up to five percent of the capital of the credit union, in debt or equity issued by an organization owned by the Northwest credit union association or its successor credit union association;

(h) Shares, stocks, loans, or other obligations of organizations whose primary purpose is to strengthen, advance, or provide services to the credit union

industry or credit union members. A credit union may invest in or make loans to organizations under this subsection (1)(h) in an aggregate amount not to exceed ten percent of its assets. This limit does not apply to investments in, and loans to, an organization:

(i) That is wholly owned by one or more credit unions or federal or out-of-state credit unions; and

(ii) Whose activities are limited exclusively to those authorized by this chapter for a credit union;

(i) Loans to credit unions, out-of-state credit unions, or federal credit unions. However, the aggregate of loans issued under this subsection (1)(i) is limited to twenty-five percent of the total shares and deposits of the credit union making the loans;

(j) Key person insurance policies and investment products related to employee benefits, the proceeds of which inure exclusively to the benefit of the credit union;

(k) A registered investment company or collective investment fund, as long as the prospectus of the company or fund restricts the investment portfolio to investments and investment transactions that are permissible for credit unions;

(l) For credit unions that are approved public depositories, any securities listed in RCW 39.58.050 as eligible collateral for public deposits;

(m) Investments of the type in which the state treasurer may invest state funds pursuant to RCW 43.84.080; or

(n) Other investments approved by the director by rule or upon written application.

(2) To aid in achieving its business or operational objectives, a credit union may invest in equity interests in corporations or other limited liability entities, whether or not the principal business of such other corporation or entity is related to the credit union's business. An "equity interest" is an interest such as stock in a corporation or membership in a limited liability company or a limited partnership interest in which the credit union's liability is limited to the amount of its investment and the credit union does not take on general liability.

(a) The entity in which the credit union invests must be engaged in or planning or developing activity that is incidental to or complementary to the credit union's operations. Activity is incidental or complementary to the credit union's operations if it would be performed for or provided to the credit union, or if it would be performed for or provided to the credit union's members in relationship to products, services, or activities that the credit union performs for or provides to its members. Such activity may not pose a risk to the safety and soundness of the credit union or the credit union industry. The entity may be engaged in other activity that is not incidental to or complementary to the credit union's operations.

(b) A credit union may not invest in:

(i) A federal depository institution or state depository institution as those terms are defined in the federal deposit insurance act, 12 U.S.C. Sec. 1813; or

(ii) A bank holding company or savings bank holding company as those terms are defined in the federal bank holding company act, 12 U.S.C. Sec. 1841.

(c) Until January 1, 2025, the initial aggregate amount of funds invested under this subsection (2) shall not exceed 2.5 percent of the net worth of the credit union, and when combined with the amount of funds invested in

organizations described in subsection (1)(h) of this section, shall not exceed 10 percent of the assets of the credit union, whichever is less.

(d) Beginning January 1, 2025, the initial aggregate amount of funds invested under this subsection (2) shall not exceed five percent of the net worth of the credit union, and when combined with the amount of funds invested in organizations described in subsection (1)(h) of this section, shall not exceed 10 percent of the assets of the credit union, whichever is less.

(e) A credit union may engage in an activity permitted under this section only with the prior authorization of the director and subject to such requirements, restrictions, or other conditions as the director may adopt by rule, order, directive, standard, policy, memorandum, or other written communication with regard to the activity. In approving or denying a proposed activity, the director shall consider the financial and management strength of the credit union and the relationship of the activity to the credit union's operations.

(3) If a credit union has lawfully made an investment that later becomes impermissible because of a change in circumstances or law, and the director finds that this investment will have an adverse effect on the safety and soundness of the credit union, then the director may require that the credit union develop a reasonable plan for the divestiture of the investment.

**Sec. 5.** RCW 31.12.438 and 2013 c 34 s 9 are each amended to read as follows:

(1) A credit union may invest in real property or leasehold interests ~~((primarily for its own use or the use of a credit union service organization in conducting business,))~~ including, but not limited to, structures and fixtures attached to real property for use in conducting its business or the business of a credit union service organization, subject to the following limitations:

(a) The credit union's net worth equals at least five percent of the total of its share and deposit accounts;

(b) The board approves the investment; and

(c) The aggregate of all such investments does not exceed seven and one-half percent of the total of its share and deposit accounts.

~~(2) ((If the real property or leasehold interest is acquired for future expansion, the credit union must partially occupy the premises within three years after the credit union makes the investment, if the premises are improved at the time of acquisition, or within six years after the credit union makes the investment, if the premises are unimproved at the time of acquisition.~~

~~(3))~~ The director may, upon written application, waive any of the limitations listed in subsection (1) ~~((or (2)))~~ of this section, and the director may adopt rules to interpret this section.

Passed by the House January 26, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 16

[Second Substitute House Bill 1210]

## REPLACING "MARIJUANA" WITH "CANNABIS"

AN ACT Relating to replacing the term "marijuana" with the term "cannabis" throughout the Revised Code of Washington; amending RCW 9.01.210, 9.94.041, 9.94A.518, 9.94A.518, 9.94A.650, 13.40.0357, 13.40.0357, 15.13.270, 15.13.270, 15.17.020, 15.49.061, 15.125.010, 15.125.020, 15.125.030, 15.125.040, 15.125.050, 15.140.020, 15.140.100, 15.140.120, 18.170.020, 19.02.110, 20.01.030, 28A.210.325, 28B.20.502, 38.38.762, 42.56.270, 42.56.620, 42.56.625, 42.56.630, 43.05.160, 43.06.490, 43.06.520, 43.21A.735, 43.330.540, 46.20.308, 46.25.120, 46.61.502, 46.61.503, 46.61.504, 46.61.50571, 46.61.5249, 46.61.745, 66.08.050, 69.04.480, 69.07.010, 69.07.020, 69.07.200, 69.50.102, 69.50.204, 69.50.325, 69.50.326, 69.50.327, 69.50.328, 69.50.331, 69.50.334, 69.50.335, 69.50.336, 69.50.339, 69.50.342, 69.50.345, 69.50.346, 69.50.348, 69.50.348, 69.50.351, 69.50.354, 69.50.363, 69.50.366, 69.50.369, 69.50.375, 69.50.378, 69.50.380, 69.50.382, 69.50.385, 69.50.390, 69.50.395, 69.50.401, 69.50.4013, 69.50.4013, 69.50.4014, 69.50.4014, 69.50.408, 69.50.410, 69.50.412, 69.50.4121, 69.50.435, 69.50.445, 69.50.450, 69.50.465, 69.50.475, 69.50.505, 69.50.515, 69.50.530, 69.50.535, 69.50.540, 69.50.550, 69.50.555, 69.50.560, 69.50.562, 69.50.563, 69.50.564, 69.50.570, 69.50.575, 69.50.580, 69.51.020, 69.51.030, 69.51.060, 69.51A.005, 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.043, 69.51A.045, 69.51A.050, 69.51A.060, 69.51A.100, 69.51A.210, 69.51A.220, 69.51A.225, 69.51A.240, 69.51A.250, 69.51A.260, 69.51A.270, 69.51A.290, 69.51A.300, 69.51A.310, 70.345.010, 79A.60.040, 82.02.010, 82.04.100, 82.04.213, 82.04.260, 82.04.331, 82.04.4266, 82.04.756, 82.08.010, 82.08.020, 82.08.02565, 82.08.0257, 82.08.0273, 82.08.02745, 82.08.0281, 82.08.0288, 82.08.0293, 82.08.820, 82.08.9997, 82.08.9998, 82.12.02565, 82.12.0258, 82.12.0283, 82.12.9997, 82.12.9998, 82.14.430, 82.16.050, 82.25.005, 82.29A.020, 82.84.030, 84.34.410, and 84.40.030; reenacting and amending RCW 9.96.060, 69.50.101, 69.50.345, 69.50.357, 69.50.360, 69.50.372, and 69.51A.230; adding a new section to chapter 46.04 RCW; adding new sections to chapter 69.50 RCW; creating a new section; providing effective dates; and providing expiration dates.

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

**NEW SECTION. Sec. 1.** It is the intent of the legislature to make technical changes to replace the term "marijuana" with "cannabis" throughout the Revised Code of Washington. The legislature finds that the use of the term "marijuana" in the United States has discriminatory origins and should be replaced with the more scientifically accurate term "cannabis." This act is technical in nature and no substantive legal changes are intended or implied.

**Sec. 2.** RCW 9.01.210 and 2018 c 68 s 1 are each amended to read as follows:

(1) A person or entity that receives deposits, extends credit, conducts funds transfers, transports cash or financial instruments on behalf of a financial institution, or provides other financial services for a ((marijuana)) cannabis producer, ((marijuana)) cannabis processor, or ((marijuana)) cannabis retailer authorized under chapter 69.50 RCW or for a qualifying patient, health care professional, or designated provider authorized under chapter 69.51A RCW, does not commit a crime under any Washington law solely by virtue of receiving deposits, extending credit, conducting funds transfers, transporting cash or other financial instruments, or providing other financial services for the person.

(2) For the purposes of this section((~~person~~)):

(a) "Cannabis" has the meaning provided in RCW 69.50.101; and

(b) "Person" or entity" means a financial institution as defined in RCW 30A.22.040, an armored car service operating under a permit issued by the utilities and transportation commission that has been contracted by a financial institution, or a person providing financial services pursuant to a license issued under chapter 18.44, 19.230, or 31.04 RCW.

(3) A certified public accountant or certified public accounting firm, which practices public accounting as defined in RCW 18.04.025, does not commit a crime solely for providing professional accounting services as specified in RCW 18.04.025 for a ((marijuana)) cannabis producer, ((marijuana)) cannabis processor, or ((marijuana)) cannabis retailer authorized under chapter 69.50 RCW.

**Sec. 3.** RCW 9.94.041 and 2016 c 199 s 1 are each amended to read as follows:

(1) Every person serving a sentence in any state correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or carries upon his or her person or has under his or her control any narcotic drug or controlled substance, as defined in chapter 69.50 RCW, alcohol, ((marijuana)) cannabis, or other intoxicant, or a cell phone or other form of an electronic telecommunications device, is guilty of a class C felony.

(2) Every person confined in a county or local correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or has under his or her control any narcotic drug or controlled substance, as defined in chapter 69.50 RCW, alcohol, ((marijuana)) cannabis, or other intoxicant, or a cell phone or other form of an electronic telecommunications device, is guilty of a class C felony.

(3) The sentence imposed under this section shall be in addition to any sentence being served.

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

**Sec. 4.** RCW 9.94A.518 and 2021 c 311 s 15 are each amended to read as follows:

TABLE 4
DRUG OFFENSES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
III Any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.825 Controlled Substance Homicide (RCW 69.50.415) Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))

DRUG OFFENSES  
 INCLUDED WITHIN EACH  
 SERIOUSNESS LEVEL

- Involving a minor in drug dealing (RCW 69.50.4015)
- Manufacture of methamphetamine (RCW 69.50.401(2)(b))
  - Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406)
  - Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
- Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440)
- Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
- II Create or deliver a counterfeit controlled substance (RCW 69.50.4011(1)(a))
  - Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(2)(b))
  - Delivery of a material in lieu of a controlled substance (RCW 69.50.4012)
  - Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(1)(f))
  - Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(2)(b))

DRUG OFFENSES  
INCLUDED WITHIN EACH  
SERIOUSNESS LEVEL

Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(2)(a))

Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except ((~~marijuana~~)) cannabis as defined in RCW 69.50.101, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(2) (c) through (e))

Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))

I Forged Prescription (RCW 69.41.020)  
Forged Prescription for a Controlled Substance (RCW 69.50.403)

Manufacture, deliver, or possess with intent to deliver ((~~marijuana~~)) cannabis as defined in RCW 69.50.101 (RCW 69.50.401(2)(c))

Unlawful Use of Building for Drug Purposes (RCW 69.53.010)

Sec. 5. RCW 9.94A.518 and 2003 c 53 s 57 are each amended to read as follows:

TABLE 4  
DRUG OFFENSES  
INCLUDED WITHIN EACH  
SERIOUSNESS LEVEL

III Any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW ((~~9.94A.602~~)) 9.94A.825



DRUG OFFENSES  
INCLUDED WITHIN EACH  
SERIOUSNESS LEVEL

- Controlled Substance Homicide (RCW 69.50.415)
- Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
- Involving a minor in drug dealing (RCW 69.50.4015)
- Manufacture of methamphetamine (RCW 69.50.401(2)(b))
- Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406)
- Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
- Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440)
- Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
- II Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.4011)
- Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(2)(b))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.4012)

DRUG OFFENSES  
INCLUDED WITHIN EACH  
SERIOUSNESS LEVEL

Maintaining a Dwelling or Place for  
Controlled Substances (RCW  
69.50.402(1)(f))

Manufacture, deliver, or possess with  
intent to deliver amphetamine  
(RCW 69.50.401(2)(b))

Manufacture, deliver, or possess with  
intent to deliver narcotics from  
Schedule I or II or flunitrazepam  
from Schedule IV (RCW  
69.50.401(2)(a))

Manufacture, deliver, or possess with  
intent to deliver narcotics from  
Schedule III, IV, or V or  
nonnarcotics from Schedule I-V  
(except ((~~marijuana~~)) cannabis as  
defined in RCW 69.50.101,  
amphetamine, methamphetamines,  
or flunitrazepam) (RCW  
69.50.401(2) (c) through (e))

Manufacture, distribute, or possess with  
intent to distribute an imitation  
controlled substance (RCW  
69.52.030(1))

I Forged Prescription (RCW 69.41.020)

Forged Prescription for a Controlled  
Substance (RCW 69.50.403)

Manufacture, deliver, or possess with  
intent to deliver ((~~marijuana~~))  
cannabis as defined in RCW  
69.50.101 (RCW 69.50.401(2)(c))

Possess Controlled Substance that is a  
Narcotic from Schedule III, IV, or V  
or Nonnarcotic from Schedule I-V  
(RCW 69.50.4013)

Possession of Controlled Substance that  
is either heroin or narcotics from  
Schedule I or II (RCW 69.50.4013)

Unlawful Use of Building for Drug  
Purposes (RCW 69.53.010)

**Sec. 6.** RCW 9.94A.650 and 2011 1st sp.s. c 40 s 9 are each amended to read as follows:

(1) This section applies to offenders who have never been previously convicted of a felony in this state, federal court, or another state, and who have never participated in a program of deferred prosecution for a felony, and who are convicted of a felony that is not:

(a) Classified as a violent offense or a sex offense under this chapter;

(b) Manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or flunitrazepam classified in Schedule IV;

(c) Manufacture, delivery, or possession with intent to deliver a methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2);

(d) The selling for profit of any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of (~~marjuana~~) **cannabis**; or

(e) Felony driving while under the influence of intoxicating liquor or any drug or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(2) In sentencing a first-time offender the court may waive the imposition of a sentence within the standard sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses.

(3) The court may impose up to six months of community custody unless treatment is ordered, in which case the period of community custody may include up to the period of treatment, but shall not exceed one year.

(4) As a condition of community custody, in addition to any conditions authorized in RCW 9.94A.703, the court may order the offender to pay all court-ordered legal financial obligations and/or perform community restitution work.

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

**Sec. 7.** RCW 9.96.060 and 2021 c 237 s 4 and 2021 c 215 s 105 are each reenacted and amended to read as follows:

(1) When vacating a conviction under this section, the court effectuates the vacation by: (a)(i) Permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or (ii) if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and (b) the court dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

(2) Every person convicted of a misdemeanor or gross misdemeanor offense may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. If the court finds the applicant meets the requirements of this subsection, the court may in its discretion vacate the record of conviction. Except as provided in subsections (3), (4), and (5) of this section, an applicant

may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if any one of the following is present:

(a) The applicant has not completed all of the terms of the sentence for the offense;

(b) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal or tribal court, at the time of application;

(c) The offense was a violent offense as defined in RCW 9.94A.030 or an attempt to commit a violent offense;

(d) The offense was a violation of RCW 46.61.502 (driving while under the influence), 46.61.504 (actual physical control while under the influence), 9.91.020 (operating a railroad, etc. while intoxicated), or the offense is considered a "prior offense" under RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug violation within ten years of the date of arrest for the prior offense or less than ten years has elapsed since the date of the arrest for the prior offense;

(e) The offense was any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses), except for failure to register as a sex offender under RCW 9A.44.132;

(f) The applicant was convicted of a misdemeanor or gross misdemeanor offense as defined in RCW 10.99.020, or the court determines after a review of the court file that the offense was committed by one family or household member against another or by one intimate partner against another, or the court, after considering the damage to person or property that resulted in the conviction, any prior convictions for crimes defined in RCW 10.99.020, or for comparable offenses in another state or in federal court, and the totality of the records under review by the court regarding the conviction being considered for vacation, determines that the offense involved domestic violence, and any one of the following factors exist:

(i) The applicant has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought, or has not provided that notification to the court;

(ii) The applicant has two or more domestic violence convictions stemming from different incidents. For purposes of this subsection, however, if the current application is for more than one conviction that arose out of a single incident, none of those convictions counts as a previous conviction;

(iii) The applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction; or

(iv) Less than five years have elapsed since the person completed the terms of the original conditions of the sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing;

(g) For any offense other than those described in (f) of this subsection, less than three years have passed since the person completed the terms of the sentence, including any financial obligations;

(h) The offender has been convicted of a new crime in this state, another state, or federal or tribal court in the three years prior to the vacation application; or

(i) The applicant is currently restrained by a domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order which restrains one party from contacting the other party or was previously restrained by such an order and was found to have committed one or more violations of the order in the five years prior to the vacation application.

(3) If the applicant is a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor; sexual assault; or domestic violence as defined in RCW 9.94A.030, or the prosecutor applies on behalf of the state, the sentencing court may vacate the record of conviction if the application satisfies the requirements of RCW 9.96.080. When preparing or filing the petition, the prosecutor is not deemed to be providing legal advice or legal assistance on behalf of the victim, but is fulfilling an administrative function on behalf of the state in order to further their responsibility to seek to reform and improve the administration of criminal justice. A record of conviction vacated using the process in RCW 9.96.080 is subject to subsections (6) and (7) of this section.

(4) Every person convicted prior to January 1, 1975, of violating any statute or rule regarding the regulation of fishing activities, including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070, 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240 who claimed to be exercising a treaty Indian fishing right, may apply to the sentencing court for vacation of the applicant's record of the misdemeanor, gross misdemeanor, or felony conviction for the offense. If the person is deceased, a member of the person's family or an official representative of the tribe of which the person was a member may apply to the court on behalf of the deceased person. Notwithstanding the requirements of RCW 9.94A.640, the court shall vacate the record of conviction if:

(a) The applicant is a member of a tribe that may exercise treaty Indian fishing rights at the location where the offense occurred; and

(b) The state has been enjoined from taking enforcement action of the statute or rule to the extent that it interferes with a treaty Indian fishing right as determined under *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and any posttrial orders of those courts, or any other state supreme court or federal court decision.

(5) Every person convicted of a misdemeanor (~~(marijuana)~~ cannabis) offense, who was twenty-one years of age or older at the time of the offense, may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. A misdemeanor (~~(marijuana)~~ cannabis) offense includes, but is not limited to: Any offense under RCW 69.50.4014, from July 1, 2004, onward, and its predecessor statutes, including RCW 69.50.401(e), from March 21, 1979, to July 1, 2004, and RCW 69.50.401(d), from May 21, 1971, to March 21, 1979, and any offense under an equivalent municipal ordinance. If an applicant qualifies under this subsection, the court shall vacate the record of conviction.

(6) A person who is a family member of a homicide victim may apply to the sentencing court on the behalf of the victim for vacation of the victim's record of

conviction for prostitution under RCW 9A.88.030. If an applicant qualifies under this subsection, the court shall vacate the victim's record of conviction.

(7)(a) Except as provided in (c) of this subsection, once the court vacates a record of conviction under this section, the person shall be released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated under this section may state that he or she has never been convicted of that crime. However, nothing in this section affects the requirements for restoring a right to possess a firearm under RCW 9.41.040. Except as provided in (b) of this subsection, nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

(b) When a court vacates a record of domestic violence as defined in RCW 10.99.020 under this section, the state may not use the vacated conviction in a later criminal prosecution unless the conviction was for: (i) Violating the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going on to the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party's person, or a protected party's vehicle (RCW 10.99.040, 10.99.050, 26.09.300, 26.26B.050, 26.44.063, 26.44.150, or 26.52.070, or any of the former RCW 26.50.060, 26.50.070, 26.50.130, and 74.34.145); (ii) stalking (RCW 9A.46.110); or (iii) a domestic violence protection order or vulnerable adult protection order entered under chapter 7.105 RCW. A vacated conviction under this section is not considered a conviction of such an offense for the purposes of 27 C.F.R. 478.11.

(c) A conviction vacated on or after July 28, 2019, qualifies as a prior conviction for the purpose of charging a present recidivist offense as defined in RCW 9.94A.030 occurring on or after July 28, 2019.

(8) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies.

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

**Sec. 8.** RCW 13.40.0357 and 2021 c 311 s 16 are each amended to read as follows:

#### DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
<b>Arson and Malicious Mischief</b>		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+
<b>Assault and Other Crimes Involving Physical Harm</b>		
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045) committed at age 15 or under	C+
A++	Drive-By Shooting (9A.36.045) committed at age 16 or 17	A
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+
<b>Burglary and Trespass</b>		
B+	Burglary 1 (9A.52.020) committed at age 15 or under	C+
A-	Burglary 1 (9A.52.020) committed at age 16 or 17	B+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E
<b>Drugs</b>		
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of ( <del>Marijuana</del> ) <u>Cannabis</u> <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B



JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
E	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	E
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
<b>Firearms and Weapons</b>		
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(vi))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
<b>Homicide</b>		
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
<b>Kidnapping</b>		
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
<b>Obstructing Governmental Operation</b>		
D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
<b>Public Disturbance</b>		
C+	Criminal Mischief with Weapon (9A.84.010(2)(b))	D+
D+	Criminal Mischief Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
<b>Sex Crimes</b>		
A	Rape 1 (9A.44.040)	B+
B++	Rape 2 (9A.44.050) committed at age 14 or under	B+
A-	Rape 2 (9A.44.050) committed at age 15 through age 17	B+
C+	Rape 3 (9A.44.060)	D+
B++	Rape of a Child 1 (9A.44.073) committed at age 14 or under	B+
A-	Rape of a Child 1 (9A.44.073) committed at age 15	B+
B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
B++	Child Molestation 1 (9A.44.083) committed at age 14 or under	B+

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
A-	Child Molestation 1 (9A.44.083) committed at age 15 through age 17	B+
B	Child Molestation 2 (9A.44.086)	C+
C	Failure to Register as a Sex Offender (9A.44.132)	D
<b>Theft, Robbery, Extortion, and Forgery</b>		
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200) committed at age 15 or under	B+
A++	Robbery 1 (9A.56.200) committed at age 16 or 17	A
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of a Stolen Vehicle (9A.56.068)	C
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D
B	Theft of a Motor Vehicle (9A.56.065)	C

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
<b>Motor Vehicle Related Crimes</b>		
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B
B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
<b>Other</b>		
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1 <sup>1</sup> (9A.76.110)	C
C	Escape 2 <sup>1</sup> (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) <sup>2</sup>	V

<sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 28 days confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

<sup>2</sup>If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**JUVENILE SENTENCING STANDARDS**

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

OPTION A

JUVENILE OFFENDER SENTENCING GRID  
STANDARD RANGE

	A++	129 to 260 weeks for all category A++ offenses				
	A+	180 weeks to age 21 for all category A+ offenses				
	A	103-129 weeks for all category A offenses				
	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
CURRENT OFFENSE CATEGORY	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
	C+	LS	LS	LS	15-36 weeks	15-36 weeks
	C	LS	LS	LS	LS	15-36 weeks
	D+	LS	LS	LS	LS	LS
	D	LS	LS	LS	LS	LS
	E	LS	LS	LS	LS	LS
PRIOR ADJUDICATIONS		0	1	2	3	4 or more

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

**OR**

**OPTION B**

**SUSPENDED DISPOSITION ALTERNATIVE**

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) Is adjudicated of an A+ or A++ offense;

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2) (a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

**OR**

**OPTION C**

**CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION  
ALTERNATIVE**

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

**OR**

**OPTION D**

**MANIFEST INJUSTICE**

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

**Sec. 9.** RCW 13.40.0357 and 2020 c 18 s 8 are each amended to read as follows:

**DESCRIPTION AND OFFENSE CATEGORY**

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
<b>Arson and Malicious Mischief</b>		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
A	Possession of Incendiary Device (9.40.120)	B+
<b>Assault and Other Crimes Involving Physical Harm</b>		
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045) committed at age 15 or under	C+
A++	Drive-By Shooting (9A.36.045) committed at age 16 or 17	A
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+
<b>Burglary and Trespass</b>		
B+	Burglary 1 (9A.52.020) committed at age 15 or under	C+
A-	Burglary 1 (9A.52.020) committed at age 16 or 17	B+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E
<b>Drugs</b>		
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D



JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of (( <del>Marijuana</del> ) <u>Cannabis</u> ) <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
<b>Firearms and Weapons</b>		
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(vi))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
<b>Homicide</b>		
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
<b>Kidnapping</b>		
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
<b>Obstructing Governmental Operation</b>		
D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
<b>Public Disturbance</b>		
C+	Criminal Mischief with Weapon (9A.84.010(2)(b))	D+
D+	Criminal Mischief Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
<b>Sex Crimes</b>		
A	Rape 1 (9A.44.040)	B+

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
B++	Rape 2 (9A.44.050) committed at age 14 or under	B+
A-	Rape 2 (9A.44.050) committed at age 15 through age 17	B+
C+	Rape 3 (9A.44.060)	D+
B++	Rape of a Child 1 (9A.44.073) committed at age 14 or under	B+
A-	Rape of a Child 1 (9A.44.073) committed at age 15	B+
B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
B++	Child Molestation 1 (9A.44.083) committed at age 14 or under	B+
A-	Child Molestation 1 (9A.44.083) committed at age 15 through age 17	B+
B	Child Molestation 2 (9A.44.086)	C+
C	Failure to Register as a Sex Offender (9A.44.132)	D
<b>Theft, Robbery, Extortion, and Forgery</b>		
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200) committed at age 15 or under	B+

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
A++	Robbery 1 (9A.56.200) committed at age 16 or 17	A
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of a Stolen Vehicle (9A.56.068)	C
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D
B	Theft of a Motor Vehicle (9A.56.065)	C
<b>Motor Vehicle Related Crimes</b>		
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
	<b>Other</b>	
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1 <sup>1</sup> (9A.76.110)	C
C	Escape 2 <sup>1</sup> (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) <sup>2</sup>	V

<sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 28 days confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

<sup>2</sup>If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**JUVENILE SENTENCING STANDARDS**

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

OPTION A  
 JUVENILE OFFENDER SENTENCING GRID  
 STANDARD RANGE

	A++	129 to 260 weeks for all category A++ offenses				
	A+	180 weeks to age 21 for all category A+ offenses				
	A	103-129 weeks for all category A offenses				
	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
CURRENT OFFENSE CATEGORY	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
	C+	LS	LS	LS	15-36 weeks	15-36 weeks
	C	LS	LS	LS	LS	15-36 weeks
	D+	LS	LS	LS	LS	LS
	D	LS	LS	LS	LS	LS
	E	LS	LS	LS	LS	LS
PRIOR ADJUDICATIONS		0	1	2	3	4 or more

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

## OR

## OPTION B

## SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) Is adjudicated of an A+ or A++ offense;

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2) (a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

OR

## OPTION C

CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION  
ALTERNATIVE

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

OR

## OPTION D

## MANIFEST INJUSTICE

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

**Sec. 10.** RCW 15.13.270 and 2014 c 140 s 32 are each amended to read as follows:

(1) The provisions of this chapter relating to nursery dealer licensing do not apply to: (a) Persons making casual or isolated sales that do not exceed one hundred dollars annually; (b) any garden club, conservation district, or charitable nonprofit association conducting not more than three sales per year for not more than four consecutive days each of horticultural plants which are grown by or donated to its members; (c) educational organizations associated with private or public secondary schools; and (d) the production of (~~marijuana~~) cannabis and persons who are licensed as (~~marijuana~~) cannabis producers under RCW 69.50.325 with respect to the operations under such license. For the purposes of this subsection, the terms (~~"marijuana" and "marijuana"~~) "cannabis" and "cannabis producer" have the same meanings as provided in RCW 69.50.101. However, such a club, conservation district, association, or organization must apply to the director for a permit to conduct such sales.

(2) All horticultural plants sold under such a permit must be in compliance with the provisions of this chapter.

**Sec. 11.** RCW 15.13.270 and 2014 c 140 s 32 are each amended to read as follows:

(1) The provisions of this chapter relating to licensing do not apply to: (a) Persons making casual or isolated sales that do not exceed one hundred dollars annually; (b) any garden club, conservation district, or charitable nonprofit association conducting not more than three sales per year for not more than four consecutive days each of horticultural plants which are grown by or donated to its members; (c) educational organizations associated with private or public secondary schools; and (d) the production of (~~marijuana~~) cannabis and persons who are licensed as (~~marijuana~~) cannabis producers under RCW 69.50.325 with respect to the operations under such license. For the purposes of this subsection, the terms (~~"marijuana" and "marijuana"~~) "cannabis" and "cannabis producer" have the same meanings as provided in RCW 69.50.101. However,



such a club, conservation district, association, or organization must apply to the director for a permit to conduct such sales.

(2) All horticultural plants sold under such a permit must be in compliance with the provisions of this chapter.

**Sec. 12.** RCW 15.17.020 and 2016 c 229 s 2 are each amended to read as follows:

For the purpose of this chapter:

(1) "Agent" means broker, commission merchant, solicitor, seller, or consignor, and any other person acting upon the actual or implied authority of another.

(2) "Certification" means, but is not limited to, the issuance by the director of an inspection certificate or other official document stating the grade, classification, and/or condition of any fruits or vegetables, and/or if the fruits or vegetables are free of plant pests and/or other defects.

(3) "Combination grade" means two or more grades packed together as one, except cull grades, with a minimum percent of the product of the higher grade, as established by rule.

(4) "Compliance agreement" means an agreement entered into between the department and a shipper or packer, that authorizes the shipper or packer to issue certificates of compliance for fruits and vegetables.

(5) "Container" means any container or subcontainer used to prepackage any fruits or vegetables. This does not include a container used by a retailer to package fruits or vegetables sold from a bulk display to a consumer.

(6) "Deceptive arrangement or display" means any bulk lot or load, arrangement, or display of fruits or vegetables which has in the exposed surface, fruits or vegetables which are so superior in quality, size, condition, or any other respect to those which are concealed, or the unexposed portion, as to materially misrepresent any part of the bulk lot or load, arrangement, or display.

(7) "Deceptive pack" means the pack of any container which has in the outer layer or any exposed surface fruits or vegetables which are in quality, size, condition, or any other respect so superior to those in the interior of the container in the unexposed portion as to materially misrepresent the contents. Such pack is deceptive when the outer or exposed surface is composed of fruits or vegetables whose size is not an accurate representation of the variation of the size of the fruits or vegetables in the entire container, even though the fruits or vegetables in the container are virtually uniform in size or comply with the specific standards adopted under this chapter.

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

(9) "Director" means the director of the department or his or her duly authorized representative.

(10) "Facility" means, but is not limited to, the premises where fruits and vegetables are grown, stored, handled, or delivered for sale or transportation, and all vehicles and equipment, whether aerial or surface, used to transport fruits and vegetables.

(11) "Fruits and vegetables" means any unprocessed fruits or vegetables, but does not include (~~marijuana~~) cannabis as defined in RCW 69.50.101.

(12) "Handler" means any person engaged in the business of handling, selling, processing, storing, shipping, or distributing fruits or vegetables that he or she has purchased or acquired from a producer.

(13) "Inspection" means, but is not limited to, the inspection by the director of any fruits or vegetables at any time prior to, during, or subsequent to harvest.

(14) "Mislabel" means the placing or presence of any false or misleading statement, design, or device upon any wrapper, container, container label or lining, or any placard used in connection with and having reference to fruits or vegetables.

(15) "Person" means any individual, firm, partnership, corporation, company, society, or association, and every officer, agent, or employee thereof.

(16) "Plant pests" means, but is not limited to, any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substance, which can directly or indirectly injure or cause disease or damage in any plant or parts thereof, or any processed, manufactured, or other products of plants.

(17) "Sell" means to sell, offer for sale, hold for sale, or ship or transport in bulk or in containers.

(18) "Standards" means grades, classifications, and other inspection criteria for fruits and vegetables.

**Sec. 13.** RCW 15.49.061 and 2014 c 140 s 34 are each amended to read as follows:

(1) The provisions of this chapter do not apply to (~~(marijuana)~~) cannabis seed. For the purposes of this subsection, (~~(marijuana)~~) "cannabis" has the same meaning as defined in RCW 69.50.101.

(2) The provisions of RCW 15.49.011 through 15.49.051 do not apply:

(a) To seed or grain not intended for sowing purposes;

(b) To seed in storage by, or being transported or consigned to(~~(f-1)~~), a conditioning establishment for conditioning if the invoice or labeling accompanying the shipment of such seed bears the statement "seeds for conditioning" and if any labeling or other representation that may be made with respect to the unconditioned seed is subject to this chapter;

(c) To any carrier with respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier if the carrier is not engaged in producing, conditioning, or marketing seeds subject to this chapter; or

(d) Seed stored or transported by the grower of the seed.

(3) No person may be subject to the penalties of this chapter for having sold or offered for sale seeds subject to this chapter that were incorrectly labeled or represented as to kind, species, variety, or type, which seeds cannot be identified by examination thereof, unless he or she has failed to obtain an invoice, genuine grower's declaration, or other labeling information and to take such other precautions as may be reasonable to ensure the identity to be that stated. A genuine grower's declaration of variety shall affirm that the grower holds records of proof concerning parent seed, such as invoice and labels.

**Sec. 14.** RCW 15.125.010 and 2017 c 317 s 18 are each amended to read as follows:

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

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

(2) "Licensee facilities" means any premises regulated by the board for producing, processing, or retailing (~~((marijuana))~~) cannabis or (~~((marijuana))~~) cannabis products.

(3) (~~(("Marijuana"))~~) "Cannabis" has the meaning provided in RCW 69.50.101.

(4) (~~(("Marijuana"))~~) "Cannabis processor" has the meaning provided in RCW 69.50.101.

(5) (~~(("Marijuana"))~~) "Cannabis producer" has the meaning provided in RCW 69.50.101.

(6) (~~(("Marijuana"))~~) "Cannabis products" has the meaning provided in RCW 69.50.101.

(7) (~~(("Marijuana"))~~) "Cannabis retailer" has the meaning provided in RCW 69.50.101.

(8) "Person" means any natural person, firm, partnership, association, private or public corporation, governmental entity, or other business entity.

**Sec. 15.** RCW 15.125.020 and 2017 c 317 s 19 are each amended to read as follows:

(1) The department may adopt rules establishing:

(a) Standards for (~~((marijuana and marijuana))~~) cannabis and cannabis products produced and processed in a manner consistent with, to the extent practicable, 7 C.F.R. Part 205;

(b) A self-sustaining program for certifying (~~((marijuana))~~) cannabis producers and (~~((marijuana))~~) cannabis processors as meeting the standards established under (a) of this subsection; and

(c) Other rules as necessary for administration of this chapter.

(2) To the extent practicable, the program must be consistent with the program established by the director under chapter 15.86 RCW.

(3) The rules must include a fee schedule that will provide for the recovery of the full cost of the program including, but not limited to, application processing, inspections, sampling and testing, notifications, public awareness programs, and enforcement.

**Sec. 16.** RCW 15.125.030 and 2017 c 317 s 20 are each amended to read as follows:

(1) No (~~((marijuana or marijuana))~~) cannabis or cannabis product may be labeled, sold, or represented as produced or processed under the standards established under this chapter unless produced or processed by a person certified by the department under the program established under this chapter.

(2) No person may represent, sell, or offer for sale any (~~((marijuana or marijuana))~~) cannabis or cannabis products as produced or processed under standards adopted under this chapter if the person knows, or has reason to know, that the (~~((marijuana or marijuana))~~) cannabis or cannabis product has not been produced or processed in conformance with the standards established under this chapter.

(3) No person may represent, sell, or offer for sale any (~~(marijuana or marijuana)~~) cannabis or cannabis products as "organic products" as that term has meaning under chapter 15.86 RCW.

**Sec. 17.** RCW 15.125.040 and 2017 c 317 s 21 are each amended to read as follows:

(1) The department may inspect licensee facilities to verify compliance with this chapter and rules adopted under it.

(2) The department may deny, suspend, or revoke a certification provided for in this chapter if the department determines that an applicant or certified person has violated this chapter or rules adopted under it.

(3) The department may impose on and collect from any person who has violated this chapter or rules adopted under it a civil fine not exceeding the total of:

(a) The state's estimated costs of investigating and taking appropriate administrative and enforcement actions for the violation; and

(b) One thousand dollars.

(4) The board may take enforcement actions against a (~~(marijuana)~~) cannabis producer, (~~(marijuana)~~) cannabis processor, or (~~(marijuana)~~) cannabis retailer license issued by the board, including suspension or revocation of the license, when a licensee continues to violate this chapter after revocation of its certification or, if uncertified, receiving written notice from the department of certification requirements.

(5) The provisions of this chapter are cumulative and nonexclusive and do not affect any other remedy at law.

**Sec. 18.** RCW 15.125.050 and 2017 c 317 s 22 are each amended to read as follows:

Information about (~~(marijuana)~~) cannabis producers, (~~(marijuana)~~) cannabis processors, and (~~(marijuana)~~) cannabis retailers otherwise exempt from public inspection and copying under chapter 42.56 RCW is also exempt from public inspection and copying if submitted to or used by the department.

**Sec. 19.** RCW 15.140.020 and 2021 c 104 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) "Agriculture improvement act of 2018" means sections 7605, 10113, 10114, and 12619 of the agriculture improvement act of 2018, P.L. 115-334.

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

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

~~((3))~~ (4) "Cultivar" means a variation of the plant *Cannabis sativa L.* that has been developed through cultivation by selective breeding.

~~((4))~~ (5) "Department" means the Washington state department of agriculture.

~~((5))~~ (6) "Food" has the same meaning as defined in RCW 69.07.010.

~~((6))~~ (7) "Hemp" means the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

~~((7))~~ (8) "Hemp processor" means a person who takes possession of raw hemp material with the intent to modify, package, or sell a transitional or finished hemp product.

~~((8))~~ (9)(a) "Industrial hemp" means all parts and varieties of the genera *Cannabis*, cultivated or possessed by a grower, whether growing or not, that contain a tetrahydrocannabinol concentration of 0.3 percent or less by dry weight that was grown under the industrial hemp research program as it existed on December 31, 2019.

(b) "Industrial hemp" does not include plants of the genera *Cannabis* that meet the definition of (~~("marijuana" as defined in RCW 69.50.104)~~) "cannabis".

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

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

(b) Other approved testing methods.

~~((10))~~ (11) "Process" means the processing, compounding, or conversion of hemp into hemp commodities or products.

~~((11))~~ (12) "Produce" or "production" means the planting, cultivation, growing, or harvesting of hemp including hemp seed.

**Sec. 20.** RCW 15.140.100 and 2019 c 158 s 10 are each amended to read as follows:

(1) There is no distance requirement, limitation, or buffer zone between any licensed hemp producer or hemp processing facility licensed or authorized under this chapter and any (~~(marijuana))~~ cannabis producer or (~~(marijuana))~~ cannabis processor licensed under chapter 69.50 RCW. No rule may establish such a distance requirement, limitation, or buffer zone without the evaluation of sufficient data showing impacts to either crop as a result of cross-pollination.

(2) Notwithstanding subsection (1) of this section, in an effort to prevent cross-pollination between hemp plants produced under this chapter and (~~(marijuana))~~ cannabis plants produced under chapter 69.50 RCW, the department, in consultation with the liquor and cannabis board, must review the state's policy regarding cross-pollination and pollen capture to ensure an appropriate policy is in place, and must modify policies or establish new policies as appropriate. Under any such policy, when a documented conflict involving cross-pollination exists between two farms or production facilities growing or producing hemp or (~~(marijuana))~~ cannabis, the farm or production facility operating first in time shall have the right to continue operating and the farm or production facility operating second in time must cease growing or producing hemp or (~~(marijuana))~~ cannabis, as applicable.

**Sec. 21.** RCW 15.140.120 and 2021 c 104 s 4 are each amended to read as follows:

Beginning on April 26, 2019:

(1)(a) No law or rule related to certified or interstate hemp seeds applies to or may be enforced against a person with a license to produce or process hemp issued under this chapter; and

~~((2))~~ (b) No department or other state agency rule may establish or enforce a buffer zone or distance requirement between a person with a license or authorization to produce or process hemp under this chapter and a person with a license to produce or process (~~(marijuana))~~ cannabis issued under chapter 69.50

RCW. The department may not adopt rules without the evaluation of sufficient data showing impacts to either crop as a result of cross-pollination.

~~((3))~~ (2) Notwithstanding the rule-making provisions of RCW 15.140.030(2), if a ~~((marijuana))~~ cannabis producer or ~~((marijuana))~~ cannabis processor licensed by the liquor and cannabis board under chapter 69.50 RCW is engaged in producing or processing hemp at the same location for which they are licensed to produce or process ~~((marijuana))~~ cannabis, the liquor and cannabis board may test samples represented as hemp that are obtained from a location licensed for ~~((marijuana))~~ cannabis production or ~~((marijuana))~~ cannabis processing for the sole purpose of validating THC content of products represented as hemp. Any product with a delta-9 tetrahydrocannabinol concentration exceeding 0.3 percent on a dry weight basis is considered ~~((marijuana))~~ cannabis and is subject to the provisions of chapter 69.50 RCW.

**Sec. 22.** RCW 18.170.020 and 2015 2nd sp.s. c 4 s 504 are each amended to read as follows:

The requirements of this chapter do not apply to:

(1) A person who is employed exclusively or regularly by one employer and performs the functions of a private security guard solely in connection with the affairs of that employer, if the employer is not a private security company. However, in accordance with RCW 69.50.382, an employee engaged in ~~((marijuana-related))~~ cannabis-related transportation or delivery services on behalf of a common carrier must be licensed as an armed private security guard under this chapter in order to be authorized to carry or use a firearm while providing such services;

(2) A sworn peace officer while engaged in the performance of the officer's official duties;

(3) A sworn peace officer while employed by any person to engage in off-duty employment as a private security guard, but only if the employment is approved by the chief law enforcement officer of the jurisdiction where the employment takes place and the sworn peace officer does not employ, contract with, or broker for profit other persons to assist him or her in performing the duties related to his or her private employer; or

(4)(a) A person performing crowd management or guest services including, but not limited to, a person described as a ticket taker, usher, door attendant, parking attendant, crowd monitor, or event staff who:

(i) Does not carry a firearm or other dangerous weapon including, but not limited to, a stun gun, taser, pepper mace, or nightstick;

(ii) Does not wear a uniform or clothing readily identifiable by a member of the public as that worn by a private security officer or law enforcement officer; and

(iii) Does not have as his or her primary responsibility the detainment of persons or placement of persons under arrest.

(b) The exemption provided in this subsection applies only when a crowd has assembled for the purpose of attending or taking part in an organized event, including preevent assembly, event operation hours, and postevent departure activities.

**Sec. 23.** RCW 19.02.110 and 2017 c 138 s 3 are each amended to read as follows:

(1) In addition to the licenses processed under the business licensing system prior to April 1, 1982, on July 1, 1982, use of the business licensing system is expanded as provided by this section.

(2) Applications for the following must be filed with the business licensing service and must be processed, and renewals must be issued, under the business licensing system:

- (a) Nursery dealer's licenses required by chapter 15.13 RCW;
- (b) Seed dealer's licenses required by chapter 15.49 RCW;
- (c) Pesticide dealer's licenses required by chapter 15.58 RCW;
- (d) Shopkeeper's licenses required by chapter 18.64 RCW;
- (e) Egg dealer's licenses required by chapter 69.25 RCW; and
- (f) (~~Marijuana-infused~~) Cannabis-infused edible endorsements required by chapter 69.07 RCW.

**Sec. 24.** RCW 20.01.030 and 2014 c 140 s 35 are each amended to read as follows:

This chapter does not apply to:

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the requirements of chapter 23.86 RCW, except as to that portion of the activities of the association or federation that involve the handling or dealing in the agricultural products of nonmembers of the organization: PROVIDED, That the associations or federations may purchase up to fifteen percent of their gross from nonmembers for the purpose of filling orders: PROVIDED FURTHER, That if the cooperative or association acts as a processor as defined in RCW 20.01.500(2) and markets the processed agricultural crops on behalf of the grower or its own behalf, the association or federation is subject to the provisions of RCW 20.01.500 through 20.01.560 and the license provision of this chapter excluding bonding provisions: PROVIDED FURTHER, That none of the foregoing exemptions in this subsection apply to any such cooperative or federation dealing in or handling grain in any manner, and not licensed under the provisions of chapter 22.09 RCW;

(2) Any person who sells exclusively his or her own agricultural products as the producer thereof;

(3) Any public livestock market operating under a bond required by law or a bond required by the United States to secure the performance of the public livestock market's obligation. However, any such market operating as a livestock dealer or order buyer, or both, is subject to all provisions of this chapter except for the payment of the license fee required in RCW 20.01.040;

(4) Any retail merchant having a bona fide fixed or permanent place of business in this state, but only for the retail merchant's retail business conducted at such fixed or established place of business;

(5) Any person buying farm products for his or her own use or consumption;

(6) Any warehouse operator or grain dealer licensed under the state grain warehouse act, chapter 22.09 RCW, with respect to his or her handling of any agricultural product as defined under that chapter;

(7) Any nursery dealer who is required to be licensed under the horticultural laws of the state with respect to his or her operations as such licensee;

(8) Any person licensed under the now existing dairy laws of the state with respect to his or her operations as such licensee;

(9) Any producer who purchases less than fifteen percent of his or her volume to complete orders;

(10) Any person, association, or corporation regulated under chapter 67.16 RCW and the rules adopted thereunder while performing acts regulated by that chapter and the rules adopted thereunder;

(11) Any domestic winery, as defined in RCW 66.04.010, licensed under Title 66 RCW, with respect to its transactions involving agricultural products used by the domestic winery in making wine;

(12) Any person licensed as a ((~~marijuana~~)) cannabis producer or processor under RCW 69.50.325 with respect to the operations under such license. The definitions in RCW 69.50.101 apply to this subsection (12).

**Sec. 25.** RCW 28A.210.325 and 2019 c 204 s 1 are each amended to read as follows:

(1) A school district must permit a student who meets the requirements of RCW 69.51A.220 to consume ((~~marijuana-infused~~)) cannabis-infused products for medical purposes on school grounds, aboard a school bus, or while attending a school-sponsored event in accordance with the school district's policy adopted under this section.

(2) Upon the request of a parent or guardian of a student who meets the requirements of RCW 69.51A.220, the board of directors of a school district shall adopt a policy to authorize parents or guardians to administer ((~~marijuana-infused~~)) cannabis-infused products to a student for medical purposes while the student is on school grounds, aboard a school bus, or attending a school-sponsored event. The policy must, at a minimum:

(a) Require that the student be authorized to use ((~~marijuana-infused~~)) cannabis-infused products for medical purposes pursuant to RCW 69.51A.220 and that the parent or guardian acts as the designated provider for the student and assists the student with the consumption of the ((~~marijuana~~)) cannabis while on school grounds, aboard a school bus, or attending a school-sponsored event;

(b) Establish protocols for verifying the student is authorized to use ((~~marijuana~~)) cannabis for medical purposes and the parent or guardian is acting as the designated provider for the student pursuant to RCW 69.51A.220. The school may consider a student's and parent's or guardian's valid recognition cards to be proof of compliance with RCW 69.51A.220;

(c) Expressly authorize parents or guardians of students who have been authorized to use ((~~marijuana~~)) cannabis for medical purposes to administer ((~~marijuana-infused~~)) cannabis-infused products to the student while the student is on school grounds at a location identified pursuant to (d) of this subsection (2), aboard a school bus, or attending a school-sponsored event;

(d) Identify locations on school grounds where ((~~marijuana-infused~~)) cannabis-infused products may be administered; and

(e) Prohibit the administration of medical ((~~marijuana~~)) cannabis to a student by smoking or other methods involving inhalation while the student is on school grounds, aboard a school bus, or attending a school-sponsored event.

(3) School district officials, employees, volunteers, students, and parents and guardians acting in accordance with the school district policy adopted under subsection (2) of this section may not be arrested, prosecuted, or subject to other criminal sanctions, or civil or professional consequences for possession, manufacture, or delivery of, or for possession with intent to manufacture or



deliver (~~((marijuana))~~) cannabis under state law, or have real or personal property seized or forfeited for possession, manufacture, or delivery of, or possession with intent to manufacture or deliver (~~((marijuana))~~) cannabis under state law.

(4) For the purposes of this section, (~~((marijuana-infused))~~) "cannabis-infused products" has the meaning provided in RCW 69.50.101.

**Sec. 26.** RCW 28B.20.502 and 2015 2nd sp.s. c 4 s 1502 are each amended to read as follows:

(1) The University of Washington and Washington State University may conduct scientific research on the efficacy and safety of administering (~~((marijuana))~~) cannabis as part of medical treatment. As part of this research, the University of Washington and Washington State University may develop and conduct studies to ascertain the general medical safety and efficacy of (~~((marijuana))~~) cannabis, and may develop medical guidelines for the appropriate administration and use of (~~((marijuana))~~) cannabis.

(2) The University of Washington and Washington State University may, in accordance with RCW 69.50.372, contract with (~~((marijuana))~~) cannabis research licensees to conduct research permitted under this section and RCW 69.50.372.

(3) The University of Washington and Washington State University may contract to conduct (~~((marijuana))~~) cannabis research with an entity licensed to conduct such research by a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.

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

**Sec. 27.** RCW 38.38.762 and 2009 c 378 s 25 are each amended to read as follows:

(1) Any person subject to this code who wrongfully uses, possesses, distributes, or introduces into an installation, vessel, vehicle, or aircraft used by or under the control of the armed forces or organized militia a substance described in subsection (2) of this section shall be punished as a court-martial may direct.

(2) The substances referred to in subsection (1) of this section are the following:

(a) Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, and (~~((marijuana))~~) cannabis and any compound or derivative of any such substance;

(b) Any substance not specified in (a) of this subsection that is listed on a schedule of controlled substances prohibited by the United States army; or

(c) Any other substance not specified in this subsection that is listed in Schedules I through V of section 202 of the federal controlled substances act, 21 U.S.C. Sec. 812, as amended.

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

**Sec. 28.** RCW 42.56.270 and 2021 c 308 s 4 are each amended to read as follows:

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

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

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750; (b) highway construction or improvement as required by RCW 47.28.070; or (c) alternative public works contracting procedures as required by RCW 39.10.200 through 39.10.905;

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

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

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

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

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

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

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

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), (~~marijuana~~) cannabis producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

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

(c) Valuable formulae or financial or proprietary commercial information records received during a consultative visit or while providing consultative services to a licensed (~~marijuana~~) cannabis business in accordance with RCW 69.50.561;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product

or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services or the health care authority for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

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

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

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

(iii) Financial or proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.31.625 (3)(b) and (4);

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

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

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

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70A.500 RCW to implement chapter 70A.500 RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under RCW 43.330.502, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

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

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

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

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

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010

through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

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

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

(21) Market share data submitted by a manufacturer under RCW 70A.500.190(4);

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

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

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

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

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

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

licensees in accordance with rules adopted by the liquor and cannabis board under RCW 69.50.372;

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

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

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

(31) Records filed with the department of ecology under chapter 70A.515 RCW that a court has determined are confidential valuable commercial information under RCW 70A.515.130; and

(32) Unaggregated financial, proprietary, or commercial information submitted to or obtained by the liquor and cannabis board in applications for licenses under RCW 66.24.140 or 66.24.145, or in any reports or remittances submitted by a person licensed under RCW 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis board under chapter 66.08 RCW.

**Sec. 29.** RCW 42.56.620 and 2015 2nd sp.s. c 4 s 1504 are each amended to read as follows:

Reports submitted by ((~~marijuana~~)) cannabis research licensees in accordance with rules adopted by the state liquor and cannabis board under RCW 69.50.372 that contain proprietary information are exempt from disclosure under this chapter.

**Sec. 30.** RCW 42.56.625 and 2015 c 70 s 22 are each amended to read as follows:

Records in the medical ((~~marijuana~~)) cannabis authorization database established in RCW 69.51A.230 containing names and other personally identifiable information of qualifying patients and designated providers are exempt from disclosure under this chapter.

**Sec. 31.** RCW 42.56.630 and 2015 2nd sp.s. c 4 s 1002 are each amended to read as follows:

(1) Registration information submitted to the state liquor and cannabis board under RCW 69.51A.250 including the names of all participating members of a cooperative, copies of each member's recognition card, location of the cooperative, and other information required for registration by the state liquor and cannabis board is exempt from disclosure under this chapter.

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

(a) "Cooperative" means a cooperative established under RCW 69.51A.250 to produce and process ((~~marijuana~~)) cannabis only for the medical use of members of the cooperative.

(b) "Recognition card" has the same meaning as provided in RCW 69.51A.010.

**Sec. 32.** RCW 43.05.160 and 2019 c 394 s 2 are each amended to read as follows:

(1) If, during an inspection or visit to a ((~~marijuana~~)) cannabis business licensed under chapter 69.50 RCW that is not a technical assistance visit, the liquor and cannabis board becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the board and are not subject to civil penalties as provided for in RCW 69.50.563, the board may issue a notice of correction to the licensee that includes:

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

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

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

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

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

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

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

**Sec. 33.** RCW 43.06.490 and 2015 c 207 s 2 are each amended to read as follows:

(1) The governor may enter into agreements with federally recognized Indian tribes concerning ((~~marijuana—Marijuana~~)) cannabis. Cannabis agreements may address any ((~~marijuana-related~~)) cannabis-related issue that involves both state and tribal interests or otherwise has an impact on tribal-state relations. Such agreements may include, but are not limited to, the following provisions and subject matter:

(a) Criminal and civil law enforcement;

(b) Regulatory issues related to the commercial production, processing, sale, and possession of ((~~marijuana~~)) cannabis, and processed ((~~marijuana~~)) cannabis products, for both recreational and medical purposes;

(c) Medical and pharmaceutical research involving ((~~marijuana~~)) cannabis;

(d) Taxation in accordance with subsection (2) of this section;

(e) Any tribal immunities or preemption of state law regarding the production, processing, or marketing of ((~~marijuana~~)) cannabis; and

(f) Dispute resolution, including the use of mediation or other nonjudicial process.

(2)(a) Each ((~~marijuana~~)) cannabis agreement adopted under this section must provide for a tribal ((~~marijuana~~)) cannabis tax that is at least one hundred percent of the state ((~~marijuana~~)) cannabis excise tax imposed under RCW 69.50.535 and state and local sales and use taxes on sales of ((~~marijuana~~)) cannabis. ((~~Marijuana~~)) Cannabis agreements apply to sales in which tribes, tribal enterprises, or tribal member-owned businesses (i) deliver or cause delivery to be made to or receive delivery from a ((~~marijuana~~)) cannabis producer, processor, or retailer licensed under chapter 69.50 RCW or (ii) physically transfer possession of the ((~~marijuana~~)) cannabis from the seller to the buyer within Indian country.

(b) The tribe may allow an exemption from tax for sales to the tribe, tribal enterprises, tribal member-owned businesses, or tribal members on ~~((marijuana))~~ cannabis grown, produced, or processed within its Indian country, or for activities to the extent they are exempt under state or federal law from the state ~~((marijuana))~~ cannabis excise tax imposed under RCW 69.50.535 or state and local sales or use taxes on sales of ~~((marijuana))~~ cannabis. Medical ~~((marijuana))~~ cannabis products used in the course of medical treatments by a clinic, hospital, or similar facility owned and operated by a federally recognized Indian tribe within its Indian country may be exempted from tax under the terms of an agreement entered into under this section.

(3) Any ~~((marijuana))~~ cannabis agreement relating to the production, processing, and sale of ~~((marijuana))~~ cannabis in Indian country, whether for recreational or medical purposes, must address the following issues:

- (a) Preservation of public health and safety;
- (b) Ensuring the security of production, processing, retail, and research facilities; and
- (c) Cross-border commerce in ~~((marijuana))~~ cannabis.

(4) The governor may delegate the power to negotiate ~~((marijuana))~~ cannabis agreements to the state liquor ~~((control))~~ and cannabis board. In conducting such negotiations, the state liquor ~~((control))~~ and cannabis board must, when necessary, consult with the governor and/or the department of revenue.

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

- (a) "Indian country" has the same meaning as in RCW 82.24.010.
- (b) "Indian tribe" or "tribe" means a federally recognized Indian tribe located within the geographical boundaries of the state of Washington.
- (c) ~~(("Marijuana"))~~ "Cannabis" means ~~(("marijuana," "marijuana"))~~ "cannabis," "cannabis concentrates," ~~((("marijuana-infused"))~~ "cannabis-infused products," and "useable ~~((marijuana))~~ cannabis," as those terms are defined in RCW 69.50.101.

**Sec. 34.** RCW 43.06.520 and 2020 c 132 s 1 are each amended to read as follows:

(1) The legislature intends to further the government-to-government relationship between the state of Washington and federally recognized Indian tribes in the state of Washington by authorizing the governor to enter into compacts concerning the state's retail sales, use, and business and occupation taxes on certain activities.

(2) The legislature finds that these compacts will benefit all Washingtonians by providing a means to promote economic development and providing needed revenues for tribal governments and Indian persons.

(3) The state and the tribes have a long-standing history of working together to develop cooperative agreements on taxation for cigarettes, fuel, timber, and ~~((marijuana))~~ cannabis. It is the legislature's intent, given the positive experiences from the nearly two decades of cooperation, to build on these successes and provide the governor with the authority to address state sales, use, and business and occupation taxes on certain activities.

(4) In addition, it is the legislature's intent that these compacts will have no impact on the taxation of any transaction that is the subject of other compacts, contracts, or agreements authorized elsewhere in this chapter.

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

**Sec. 35.** RCW 43.21A.735 and 2019 c 277 s 3 are each amended to read as follows:

(1)(a) The cannabis science task force is established with members as provided in this subsection.

(i) The directors, or the directors' appointees, of the departments of agriculture, health, ecology, and the liquor and cannabis board must each serve as members on the task force.

(ii) A majority of the four agency task force members will select additional members, as follows:

(A) Representatives with expertise in chemistry, microbiology, toxicology, public health, and/or food and agricultural testing methods from state and local agencies and tribal governments; and

(B) Nongovernmental cannabis industry scientists.

(b) The director or the director's designee from the department of ecology must serve as chair of the task force.

(2)(a) The cannabis science task force must:

(i) Collaborate on the development of appropriate laboratory quality standards for ~~((marijuana))~~ cannabis product testing laboratories;

(ii) Establish two work groups:

(A) A proficiency testing program work group to be led by the department; and

(B) A laboratory quality standards work group to be led by the department of agriculture. At a minimum this work group will address appropriate approved testing methods, method validation protocols, and method performance criteria.

(b) The cannabis science task force may reorganize the work groups or create additional work groups as necessary.

(3) Staff support for the cannabis science task force must be provided by the department.

(4) Reimbursement for members is subject to chapter 43.03 RCW.

(5) Expenses of the cannabis science task force must be paid by the department.

(6) The cannabis science task force must submit a report to the relevant committees of the legislature by July 1, 2020, that includes the findings and recommendations for laboratory quality standards for pesticides in plants for ~~((marijuana))~~ cannabis product testing laboratories. The report must include, but is not limited to, recommendations relating to the following:

(a) Appropriate approved testing methods;

(b) Method validation protocols;

(c) Method performance criteria;

(d) Sampling and homogenization protocols;

(e) Proficiency testing; and

(f) Regulatory updates related to (a) through (e) of this subsection, by which agencies, and the timing of these updates.



(7) To the fullest extent possible, the task force must consult with other jurisdictions that have established, or are establishing, ((marijuana)) cannabis product testing programs.

(8) Following development of findings and recommendations for laboratory quality standards for pesticides in plants for ((marijuana)) cannabis product testing laboratories, the task force must develop findings and recommendations for additional laboratory quality standards, including, but not limited to, heavy metals in and potency of ((marijuana)) cannabis products.

(a) The cannabis science task force must submit a report on the findings and recommendations for these additional standards to the relevant committees of the legislature by December 1, 2021.

(b) The report must include recommendations pertaining to the items listed in subsection (6)(a) through (f) of this section.

(9) The task force must hold its first meeting by September 1, 2019.

(10) This section expires December 31, 2022.

**Sec. 36.** RCW 43.330.540 and 2021 c 169 s 1 are each amended to read as follows:

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

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

(i) Cannabis license applicants who are social equity applicants submitting social equity plans under RCW 69.50.335; and

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

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

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

(a) Assistance navigating the cannabis licensure process;

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

(c) Regulatory compliance training;

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

(e) Strengthening a social equity plan; and

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

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

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

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

(c) Meet department reporting and invoicing requirements.

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

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

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

**NEW SECTION. Sec. 37.** A new section is added to chapter 46.04 RCW to read as follows:

"Cannabis," except as otherwise provided in this title, has the meaning provided in RCW 69.50.101.

**Sec. 38.** RCW 46.20.308 and 2019 c 232 s 21 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath for the purpose of determining the alcohol concentration in his or her breath if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. Prior to administering a breath test pursuant to this section, the officer shall inform the person of his or her right under this section to refuse the breath test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if:

(i) The driver is age twenty-one or over and the test indicates either that the alcohol concentration of the driver's breath is 0.08 or more; or

(ii) The driver is under age twenty-one and the test indicates either that the alcohol concentration of the driver's breath is 0.02 or more; or

(iii) The driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

(d) If the driver's license, permit, or privilege to drive is suspended, revoked, or denied the driver may be eligible to immediately apply for an ignition interlock driver's license.

(3) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested exercises the right, granted herein, by refusing upon the request of a law enforcement officer to submit to a test or tests of his or her breath, no test shall be given except as otherwise authorized by law.

(4) Nothing in subsection (1), (2), or (3) of this section precludes a law enforcement officer from obtaining a person's blood to test for alcohol, (~~marijuana~~) cannabis, or any drug, pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law. Any blood drawn for the purpose of determining the person's alcohol, (~~marijuana~~) cannabis levels, or any drug, is drawn pursuant to this section when the officer has reasonable grounds to believe that the person is in physical control or driving a vehicle under the influence or in violation of RCW 46.61.503.

(5) If, after arrest and after any other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more, or the THC concentration of the person's blood is 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood is 0.02 or more, or the THC concentration of the person's blood is above 0.00, if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by subsection (6) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (7) of this section;

(c) Serve notice in writing that the license or permit, if any, is a temporary license that is valid for thirty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (7) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(d) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by chapter 5.50 RCW that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol or THC concentration in violation of RCW 46.61.503;

(ii) That after receipt of any applicable warnings required by subsection (2) of this section the person refused to submit to a test of his or her breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(6) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by chapter 5.50 RCW under subsection (5)(d) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, or denial to be effective beginning thirty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (7) of this section, whichever occurs first.

(7) A person receiving notification under subsection (5)(b) of this section may, within seven days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of three hundred seventy-five dollars as part of the request. If the request is mailed, it must be postmarked within seven days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required three hundred seventy-five dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required three hundred seventy-five dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within thirty days, excluding Saturdays, Sundays, and legal holidays, following the date of timely receipt of such request for a formal hearing before the department or thirty days, excluding Saturdays, Sundays, and legal holidays following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license under subsection (5) of this section extended, if the person is otherwise eligible for licensing. Unless otherwise agreed to by the department and the person, the department must give five days notice of the hearing to the person. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual

physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person was age twenty-one or over at the time of the arrest, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person was under the age of twenty-one at the time of the arrest. Where a person is found to be in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was under the age of twenty-one at the time of the arrest and was in physical control of a motor vehicle while having alcohol in his or her system in a concentration of 0.02 or THC concentration above 0.00, the person may petition the hearing officer to apply the affirmative defense found in RCW 46.61.504(3) and 46.61.503(2). The driver has the burden to prove the affirmative defense by a preponderance of the evidence. The sworn report or report under a declaration authorized by chapter 5.50 RCW submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by chapter 5.50 RCW of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(8) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b) that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

(9)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (6) of this section, other than as a result of a breath test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (6) of this section, or notifies the department of licensing of the intent to seek such a deferred prosecution, then the license suspension or revocation shall be stayed pending entry of the deferred prosecution. The stay shall not be longer than one hundred fifty days after the date charges are filed, or two years after the date of the arrest, whichever time period is shorter. If the court stays the suspension, revocation, or denial, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license under subsection (5) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary license or extension of a temporary license issued under this subsection.

(b) A suspension, revocation, or denial imposed under this section, other than as a result of a breath test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or denial do not apply to the suspension, revocation, denial, or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

(10) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

**Sec. 39.** RCW 46.25.120 and 2015 2nd sp.s. c 3 s 7 are each amended to read as follows:

(1) A person who drives a commercial motor vehicle within this state is deemed to have given consent, subject to RCW 46.61.506, to take a test or tests of that person's breath for the purpose of determining that person's alcohol concentration.

(2) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has reasonable grounds to believe that driver was driving a commercial motor vehicle while having alcohol in his or her system or while under the influence of any drug.

(3) The law enforcement officer requesting the test under subsection (1) of this section shall warn the person requested to submit to the test that a refusal to submit will result in that person being disqualified from operating a commercial motor vehicle under RCW 46.25.090.

(4) A law enforcement officer who at the time of stopping or detaining a commercial motor vehicle driver has reasonable grounds to believe that driver was driving a commercial motor vehicle while having alcohol, ~~((marijuana))~~ cannabis, or any drug in his or her system or while under the influence of alcohol, ~~((marijuana))~~ cannabis, or any drug may obtain a blood test pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law.

(5) If the person refuses testing, or a test is administered that discloses an alcohol concentration of 0.04 or more or any measurable amount of THC concentration, the law enforcement officer shall submit a sworn report to the department certifying that the test was requested pursuant to subsection (1) of this section or a blood test was administered pursuant to subsection (4) of this section and that the person refused to submit to testing, or a test was administered that disclosed an alcohol concentration of 0.04 or more or any measurable amount of THC concentration.

(6) Upon receipt of the sworn report of a law enforcement officer under subsection (5) of this section, the department shall disqualify the driver from

driving a commercial motor vehicle under RCW 46.25.090, subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle within this state while having alcohol in the person's system or while under the influence of any drug, whether the person refused to submit to the test or tests upon request of the officer after having been informed that the refusal would result in the disqualification of the person from driving a commercial motor vehicle, if applicable, and, if the test was administered, whether the results indicated an alcohol concentration of 0.04 percent or more or any measurable amount of THC concentration. The department shall order that the disqualification of the person either be rescinded or sustained. Any decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during the pendency of the hearing and appeal. If the disqualification of the person is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the county of arrest to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

(7) If a motor carrier or employer who is required to have a testing program under 49 C.F.R. 382 knows that a commercial driver in his or her employ has refused to submit to testing under this section and has not been disqualified from driving a commercial motor vehicle, the employer may notify law enforcement or his or her medical review officer or breath alcohol technician that the driver has refused to submit to the required testing.

(8) The hearing provisions of this section do not apply to those persons disqualified from driving a commercial motor vehicle under RCW 46.25.090(7).

**Sec. 40.** RCW 46.61.502 and 2017 c 335 s 1 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor, (~~marijuana~~) cannabis, or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after driving, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor, (~~marijuana~~) cannabis, or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor, (~~marijuana~~) cannabis, and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.



(3)(a) It is an affirmative defense to a violation of subsection (1)(a) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of (~~marijuana~~) cannabis after the time of driving and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by (~~marijuana~~) cannabis in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class B felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has three or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.504(6).

**Sec. 41.** RCW 46.61.503 and 2015 2nd sp.s. c 3 s 14 are each amended to read as follows:

(1) Notwithstanding any other provision of this title, a person is guilty of driving or being in physical control of a motor vehicle after consuming alcohol

or (~~marijuana~~) cannabis if the person operates or is in physical control of a motor vehicle within this state and the person:

(a) Is under the age of twenty-one; and

(b) Has, within two hours after operating or being in physical control of the motor vehicle, either:

(i) An alcohol concentration of at least 0.02 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(ii) A THC concentration above 0.00 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's blood made under RCW 46.61.506.

(2) It is an affirmative defense to a violation of subsection (1) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol or (~~marijuana~~) cannabis after the time of driving or being in physical control and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol or THC concentration to be in violation of subsection (1) of this section within two hours after driving or being in physical control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the earlier of: (a) Seven days prior to trial; or (b) the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(3) No person may be convicted under this section for being in physical control of a motor vehicle and it is an affirmative defense to any action pursuant to RCW 46.20.308 to suspend, revoke, or deny the privilege to drive, if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving or being in physical control may be used as evidence that within two hours of the alleged driving or being in physical control, a person had an alcohol or THC concentration in violation of subsection (1) of this section.

(5) A violation of this section is a misdemeanor.

**Sec. 42.** RCW 46.61.504 and 2017 c 335 s 2 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after being in actual physical control of a vehicle, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a

defense against any charge of violating this section. No person may be convicted under this section and it is an affirmative defense to any action pursuant to RCW 46.20.308 to suspend, revoke, or deny the privilege to drive if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3)(a) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of (~~marijuana~~) cannabis after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after being in control of the vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in control of the vehicle, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by (~~marijuana~~) cannabis in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has three or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

- (ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);
- (iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or
- (iv) A violation of this subsection (6) or RCW 46.61.502(6).

**Sec. 43.** RCW 46.61.50571 and 2015 3rd sp.s. c 35 s 2 are each amended to read as follows:

(1) A defendant who is charged with an offense involving driving while under the influence as defined in RCW 46.61.502, driving under age twenty-one after consuming alcohol or ((~~marijuana~~)) cannabis as defined in RCW 46.61.503, or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, shall be required to appear in person before a judicial officer within one judicial day after the arrest if the defendant is served with a citation or complaint at the time of the arrest. A court may by local court rule waive the requirement for appearance within one judicial day if it provides for the appearance at the earliest practicable day following arrest and establishes the method for identifying that day in the rule.

(2) A defendant who is charged with an offense involving driving while under the influence as defined in RCW 46.61.502, driving under age twenty-one after consuming alcohol or ((~~marijuana~~)) cannabis as defined in RCW 46.61.503, or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, and who is not served with a citation or complaint at the time of the incident, shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen 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.

(3) At the time of an appearance required by this section, the court shall determine the necessity of imposing conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment.

(4) Appearances required by this section are mandatory and may not be waived.

(5) If electronic monitoring or alcohol abstinence monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring or abstinence monitoring.

**Sec. 44.** RCW 46.61.5249 and 2013 2nd sp.s. c 35 s 16 are each amended to read as follows:

(1)(a) A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or ((~~marijuana~~)) cannabis or any drug or exhibits the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects.

(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed any drug that must be proved by the defendant by a preponderance of the evidence, that the driver has a

valid prescription for the drug consumed, and has been consuming it according to the prescription directions and warnings.

(c) Negligent driving in the first degree is a misdemeanor.

(2) For the purposes of this section:

(a) "Negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

(b) "Exhibiting the effects of having consumed liquor, ~~((marijuana))~~ cannabis, or any drug" means that a person has the odor of liquor, ~~((marijuana))~~ cannabis, or any drug on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, ~~((marijuana))~~ cannabis, or any drug, and either:

(i) Is in possession of or in close proximity to a container that has or recently had liquor, ~~((marijuana))~~ cannabis, or any drug in it; or

(ii) Is shown by other evidence to have recently consumed liquor, ~~((marijuana))~~ cannabis, or any drug.

(c) "Exhibiting the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects" means that a person by speech, manner, appearance, behavior, or lack of coordination or otherwise exhibits that he or she has inhaled or ingested a chemical and either:

(i) Is in possession of the canister or container from which the chemical came; or

(ii) Is shown by other evidence to have recently inhaled or ingested a chemical for its intoxicating or hallucinatory effects.

(3) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

(4) A person convicted of negligent driving in the first degree who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person.

**Sec. 45.** RCW 46.61.745 and 2015 2nd sp.s. c 3 s 8 are each amended to read as follows:

(1)(a) It is a traffic infraction:

(i) For the registered owner of a motor vehicle, or the driver if the registered owner is not then present, or passengers in the vehicle, to keep ~~((marijuana))~~ cannabis in a motor vehicle when the vehicle is upon a highway, unless it is (A) in the trunk of the vehicle, (B) in some other area of the vehicle not normally occupied or directly accessible by the driver or passengers if the vehicle does not have a trunk, or (C) in a package, container, or receptacle that has not been opened or the seal broken or contents partially removed. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers;

(ii) To consume ~~((marijuana))~~ cannabis in any manner including, but not limited to, smoking or ingesting in a motor vehicle when the vehicle is upon the public highway; or

(iii) To place (~~(marijuana)~~) cannabis in a container specifically labeled by the manufacturer of the container as containing a (~~(nonmarijuana)~~) noncannabis substance and to then violate (a)(i) of this subsection.

(b) There is a rebuttable presumption that it is a traffic infraction if the original container of (~~(marijuana)~~) cannabis is incorrectly labeled and there is a subsequent violation of (a)(i) of this subsection.

(2) As used in this section, (~~("marijuana" or "marihuana")~~) "cannabis" means all parts of the plant *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

**Sec. 46.** RCW 66.08.050 and 2015 2nd sp.s. c 4 s 601 are each amended to read as follows:

The board, subject to the provisions of this title and the rules, must:

(1) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;

(2) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;

(3) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;

(4) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;

(5) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;

(6) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks associated with alcohol and (~~(marijuana)~~) cannabis consumption by youth and the abuse of alcohol and (~~(marijuana)~~) cannabis by adults in Washington state. The board's alcohol awareness program must cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program. For the purposes of this subsection, "cannabis" has the meaning provided in RCW 69.50.101;

(7) Monitor and regulate the practices of licensees as necessary in order to prevent the theft and illegal trafficking of liquor pursuant to RCW 66.28.350;

(8) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and has full power to do each and every act necessary to the conduct of its regulatory functions, including all supplies procurement, preparation and approval of forms, and every other undertaking necessary to perform its regulatory functions whatsoever, subject only to audit by the state auditor. However, the board has no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not a clear and present danger of disorderly

conduct being provoked by such language or to restrict advertising of lawful prices.

**Sec. 47.** RCW 69.04.480 and 2009 c 549 s 1023 are each amended to read as follows:

A drug or device shall be deemed to be misbranded if it is for use by human beings and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, beta eucaine, bromal, cannabis, as that term is defined in RCW 69.50.101, carbromal, chloral, coca, cocaine, codeine, heroin, (~~marijuana~~) morphine, opium, paraldehyde, peyote, or sulphomethane; or any chemical derivative of such substance, which derivative has been designated as habit forming by regulations promulgated under section 502(d) of the federal act; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

**Sec. 48.** RCW 69.07.010 and 2021 c 104 s 5 are each amended to read as follows:

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

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

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

(3) "Director" means the director of the department.

(4) "Food" means any substance used for food or drink by any person, including ice, bottled water, and any ingredient used for components of any such substance regardless of the quantity of such component.

(5) "Food processing" means the handling or processing of any food in any manner in preparation for sale for human consumption: PROVIDED, That it shall not include fresh fruit or vegetables merely washed or trimmed while being prepared or packaged for sale in their natural state.

(6) "Food processing plant" includes but is not limited to any premises, plant, establishment, building, room, area, facilities and the appurtenances thereto, in whole or in part, where food is prepared, handled or processed in any manner for distribution or sale for resale by retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer: PROVIDED, That, as set forth herein, establishments processing foods in any manner for resale shall be considered a food processing plant as to such processing.

(7) "Food service establishment" shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial-feeding establishment, retail grocery, retail food market, retail meat market, retail bakery, private, public, or nonprofit organization routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

For the purpose of this chapter any custom cannery or processing plant where raw food products, food, or food products are processed for the owner thereof, or the food processing facilities are made available to the owners or

persons in control of raw food products or food or food products for processing in any manner, shall be considered to be food processing plants.

(8) "Hemp extract" means a substance or compound intended for human ingestion that is derived from, or made by, processing hemp. The term does not include hemp seeds or hemp seed-derived ingredients that are generally recognized as safe by the United States food and drug administration.

(9) "Hemp extract certification" means a certification issued by the department to a hemp processor manufacturing hemp extract for export to other states, which certifies the hemp processor's compliance with Washington state's inspection and sanitation requirements.

(10) "Hemp processor" has same meaning as defined in RCW 15.140.020.

(11) (~~("Marijuana")~~) "Cannabis" has the definition in RCW 69.50.101.

(12) (~~("Marijuana-infused")~~) "Cannabis-infused edible" has the same meaning as (~~("marijuana-infused")~~) "cannabis-infused products" as defined in RCW 69.50.101, but limited to products intended for oral consumption.

(13) (~~("Marijuana-infused")~~) "Cannabis-infused edible processing" means processing, packaging, or making (~~("marijuana-infused")~~) cannabis-infused edibles using (~~("marijuana")~~) cannabis, (~~("marijuana")~~) cannabis extract, or (~~("marijuana")~~) cannabis concentrates as an ingredient. The term does not include preparation of (~~("marijuana")~~) cannabis as an ingredient including, but not limited to, processing (~~("marijuana")~~) cannabis extracts or (~~("marijuana")~~) cannabis concentrates.

(14) (~~("Marijuana")~~) "Cannabis processor" has the definition in RCW 69.50.101.

(15) "Person" means an individual, partnership, corporation, or association.

(16) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

**Sec. 49.** RCW 69.07.020 and 2021 c 104 s 7 are each amended to read as follows:

(1) The department shall enforce and carry out the provisions of this chapter, and may adopt the necessary rules to carry out its purposes.

(2) Such rules may include:

(a) Standards for temperature controls in the storage of foods, so as to provide proper refrigeration.

(b) Standards for temperatures at which low acid foods must be processed and the length of time such temperatures must be applied and at what pressure in the processing of such low acid foods.

(c) Standards and types of recording devices that must be used in providing records of the processing of low acid foods, and how they shall be made available to the department of agriculture for inspection.

(d) Requirements for the keeping of records of the temperatures, times and pressures at which foods were processed, or for the temperatures at which refrigerated products were stored by the licensee and the furnishing of such records to the department.

(e) Standards that must be used to establish the temperature and purity of water used in the processing of foods.



(3) The department may adopt rules specific to ~~((marijuana-infused))~~ cannabis-infused edibles. Such rules must be written and interpreted to be consistent with rules adopted by the board and the department of health.

(4) The department may adopt rules specific to hemp extract certification to implement RCW 69.07.220.

**Sec. 50.** RCW 69.07.200 and 2017 c 138 s 4 are each amended to read as follows:

(1) In addition to the requirements administered by the board under chapter 69.50 RCW, the department shall regulate ~~((marijuana-infused))~~ cannabis-infused edible processing the same as other food processing under this chapter, except:

(a) The department shall not consider foods containing ~~((marijuana))~~ cannabis to be adulterated when produced in compliance with chapter 69.50 RCW and the rules adopted by the board;

(b) Initial issuance and renewal for an annual ~~((marijuana-infused))~~ cannabis-infused edible endorsement in lieu of a food processing license under RCW 69.07.040 must be made through the business licensing system under chapter 19.02 RCW;

(c) Renewal of the endorsement must coincide with renewal of the endorsement holder's ~~((marijuana))~~ cannabis processor license;

(d) The department shall adopt a penalty schedule specific to ~~((marijuana))~~ cannabis processors, which may have values equivalent to the penalty schedule adopted by the board. Such penalties are in addition to any penalties imposed under the penalty schedule adopted by the board; and

(e) The department shall notify the board of violations by ~~((marijuana))~~ cannabis processors under this chapter.

(2) A ~~((marijuana))~~ cannabis processor that processes, packages, or makes ~~((marijuana-infused))~~ cannabis-infused edibles must obtain an annual ~~((marijuana-infused))~~ cannabis-infused edible endorsement, as provided in this subsection (2).

(a) The ~~((marijuana))~~ cannabis processor must apply for issuance and renewal for the endorsement from the department through the business licensing system under chapter 19.02 RCW.

(b) The ~~((marijuana))~~ cannabis processor must have a valid ~~((marijuana))~~ cannabis processor license before submitting an application for initial endorsement. The application and initial endorsement fees total eight hundred ninety-five dollars. Applicants for endorsement otherwise must meet the same requirements as applicants for a food processing license under this chapter including, but not limited to, successful completion of inspection by the department.

(c) Annual renewal of the endorsement must coincide with renewal of the endorsement holder's ~~((marijuana))~~ cannabis processor license. The endorsement renewal fee is eight hundred ninety-five dollars.

(d) A ~~((marijuana))~~ cannabis processor must obtain a separate endorsement for each location at which the ~~((marijuana))~~ cannabis processor intends to process ~~((marijuana-infused))~~ cannabis-infused edibles. Premises used for ~~((marijuana-infused))~~ cannabis-infused edible processing may not be used for processing food that does not use ~~((marijuana))~~ cannabis as an ingredient, with

the exception of edibles produced solely for tasting samples or internal product testing.

(3) The department may deny, suspend, or revoke a ~~((marijuana-infused))~~ cannabis-infused edible endorsement on the same grounds as the department may deny, suspend, or revoke a food processor's license under this chapter.

(4) Information about processors otherwise exempt from public inspection and copying under chapter 42.56 RCW is also exempt from public inspection and copying if submitted to or used by the department.

**Sec. 51.** RCW 69.50.101 and 2020 c 133 s 2 and 2020 c 80 s 43 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

(g) "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.

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

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

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

(2) The term does not include:

(i) a controlled substance;

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

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal food,

drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.77 RCW to the extent conduct with respect to the substance is pursuant to the exemption; or

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

(i) "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.

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

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

(l) "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.

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

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

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

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

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

(r) "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.

(s) "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.

(t) "Immediate precursor" means a substance:

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

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

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

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

69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(v) "Lot" means a definite quantity of (~~((marijuana, marijuana))~~) cannabis, cannabis concentrates, useable ((marijuana) cannabis, or ((marijuana-infused)) 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.

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

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

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

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

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

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

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

(z) (~~("Marijuana")~~) "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.

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

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

(cc) (~~("Marijuana")~~) "Cannabis products" means useable (~~(("marijuana, marijuana"))~~) cannabis, cannabis concentrates, and (~~(("marijuana-infused"))~~) cannabis-infused products as defined in this section.

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

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

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

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

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

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

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

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

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

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

(mm) "Practitioner" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 52.** RCW 69.50.102 and 2012 c 117 s 366 are each amended to read as follows:

(a) As used in this chapter, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, ((~~marihuana~~) cannabis);

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing ((~~marhuana~~) cannabis) cannabis, cocaine, hashish, or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips: Meaning objects used to hold burning material, such as a ((~~marhuana~~) cannabis) cannabis cigarette, that has become too small or too short to be held in the hand;

(vi) Miniature cocaine spoons, and cocaine vials;

(vii) Chamber pipes;

(viii) Carburetor pipes;

(ix) Electric pipes;

(x) Air-driven pipes;

(xi) Chillums;

(xii) Bongs; and

(xiii) Ice pipes or chillers.

(b) In determining whether an object is drug paraphernalia under this section, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

(3) The proximity of the object, in time and space, to a direct violation of this chapter;

(4) The proximity of the object to controlled substances;

(5) The existence of any residue of controlled substances on the object;

(6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended or designed for use as drug paraphernalia;

(7) Instructions, oral or written, provided with the object concerning its use;

(8) Descriptive materials accompanying the object which explain or depict its use;

(9) National and local advertising concerning its use;



- (10) The manner in which the object is displayed for sale;
- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community; and
- (14) Expert testimony concerning its use.

**Sec. 53.** RCW 69.50.204 and 2019 c 158 s 13 are each amended to read as follows:

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule I:

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol, except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-[1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;

- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxeridine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacylmorphan;
- (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylprop anamide);
- (35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracymethadol;
- (39) Norlevorphanol;
- (40) Normethadone;
- (41) Norpipanone;
- (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny] propanamide);
- (43) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (44) Phenadoxone;
- (45) Phenampromide;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Piritramide;
- (49) Proheptazine;
- (50) Properidine;
- (51) Propiram;
- (52) Racemoramide;
- (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide);
- (54) Tilidine;
- (55) Trimeperidine.

(b) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine, except hydrochloride salt;

- (11) Heroin;
- (12) Hydromorphenol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

(c) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation. For the purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers:

(1) Alpha-ethyltryptamine: Some trade or other names: Etryptamine; monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; a-ET; and AET;

(2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;

(3) 4-bromo-2,5-dimethoxyphenethylamine: Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, nexus;

(4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;

(5) 2,5-dimethoxy-4-ethylamphetamine (DOET);

(6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name: 2C-T-7;

(7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;

(8) 5-methoxy-3,4-methylenedioxy-amphetamine;

(9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";

(10) 3,4-methylenedioxy amphetamine;

(11) 3,4-methylenedioxymethamphetamine (MDMA);

(12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(13) N-hydroxy-3,4-methylenedioxyamphetamine also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-hydroxy MDA;

(14) 3,4,5-trimethoxy amphetamine;

(15) Alpha-methyltryptamine: Other name: AMT;

(16) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(17) Cannabis;

(18) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;

~~((18))~~ (19) Dimethyltryptamine: Some trade or other names: DMT;

~~((19))~~ (20) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;

~~((20))~~ (21) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2' 1,2) azepino (5,4-b) indole; Tabernanthe iboga;

~~((21))~~ (22) Lysergic acid diethylamide;

~~((22) Marijuana or marijuana;)~~

(23) Mescaline;

(24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;

(25) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812 (c), Schedule I (c)(12));

(26) N-ethyl-3-piperidyl benzilate;

(27) N-methyl-3-piperidyl benzilate;

(28) Psilocybin;

(29) Psilocyn;

(30)(i) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genera *Cannabis*, as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the genera *Cannabis*, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(A) 1 - cis - or trans tetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;

(B) 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;

(C) 3,4 - cis - or trans tetrahydrocannabinol, and its optical isomers; or

(D) That is chemically synthesized and either:

(I) Has been demonstrated to have binding activity at one or more cannabinoid receptors; or

(II) Is a chemical analog or isomer of a compound that has been demonstrated to have binding activity at one or more cannabinoid receptors;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(ii) Hemp and industrial hemp, as defined in RCW 15.140.020, are excepted from the categories of controlled substances identified under this section;

(31) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

(32) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

(33) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP;

(34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other name is TCPy.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) Gamma-hydroxybutyric acid: Some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate;

(2) Mecloqualone;

(3) Methaqualone.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4, 5-dihydro-5-phenyl-2-oxazolamine;

(2) N-Benzylpiperazine: Some other names: BZP, 1-benzylpiperazine;

(3) Cathinone, also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(4) Fenethylamine;

(5) Methcathinone: Some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(6) (+)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(7) N-ethylamphetamine;

(8) N,N-dimethylamphetamine: Some trade or other names: N,N-alpha-trimethyl-benzenethanamine; N,N-alpha-trimethylphenoethylene.

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

**Sec. 54.** RCW 69.50.325 and 2020 c 236 s 6 are each amended to read as follows:

(1) There shall be a (~~marijuana~~) cannabis producer's license regulated by the board and subject to annual renewal. The licensee is authorized to produce: (a) (~~Marijuana~~) Cannabis for sale at wholesale to (~~marijuana~~) cannabis processors and other (~~marijuana~~) cannabis producers; (b) immature plants or clones and seeds for sale to cooperatives as described under RCW 69.51A.250;

and (c) immature plants or clones and seeds for sale to qualifying patients and designated providers as provided under RCW 69.51A.310. The production, possession, delivery, distribution, and sale of ((~~marijuana~~)) cannabis in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed ((~~marijuana~~)) cannabis producer, shall not be a criminal or civil offense under Washington state law. Every ((~~marijuana~~)) cannabis producer's license shall be issued in the name of the applicant, shall specify the location at which the ((~~marijuana~~)) cannabis producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a ((~~marijuana~~)) cannabis producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a ((~~marijuana~~)) cannabis producer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a ((~~marijuana~~)) cannabis producer intends to produce ((~~marijuana~~)) cannabis.

(2) There shall be a ((~~marijuana~~)) cannabis processor's license to process, package, and label ((~~marijuana~~)) cannabis concentrates, useable ((~~marijuana, and marijuana-infused~~)) cannabis, and cannabis-infused products for sale at wholesale to ((~~marijuana~~)) cannabis processors and ((~~marijuana~~)) cannabis retailers, regulated by the board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of ((~~marijuana~~)) cannabis, useable ((~~marijuana, marijuana-infused~~)) cannabis, cannabis-infused products, and ((~~marijuana~~)) cannabis concentrates in accordance with the provisions of this chapter and chapter 69.51A RCW and the rules adopted to implement and enforce these chapters, by a validly licensed ((~~marijuana~~)) cannabis processor, shall not be a criminal or civil offense under Washington state law. Every ((~~marijuana~~)) cannabis processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a ((~~marijuana~~)) cannabis processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a ((~~marijuana~~)) cannabis processor's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a ((~~marijuana~~)) cannabis processor intends to process ((~~marijuana~~)) cannabis.

(3)(a) There shall be a ((~~marijuana~~)) cannabis retailer's license to sell ((~~marijuana~~)) cannabis concentrates, useable ((~~marijuana, and marijuana-infused~~)) cannabis, and cannabis-infused products at retail in retail outlets, regulated by the board and subject to annual renewal. The possession, delivery, distribution, and sale of ((~~marijuana~~)) cannabis concentrates, useable ((~~marijuana, and marijuana-infused~~)) cannabis, and cannabis-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed ((~~marijuana~~)) cannabis retailer, shall not be a criminal or civil offense under Washington state law. Every ((~~marijuana~~)) cannabis retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a ((~~marijuana~~)) cannabis retailer's license shall be two hundred fifty dollars. The

annual fee for issuance and renewal of a ((marijuana)) cannabis retailer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a ((marijuana)) cannabis retailer intends to sell ((marijuana)) cannabis concentrates, useable ((marijuana, and marijuana-infused)) cannabis, and cannabis-infused products.

(b) An individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding a collective total of not more than five retail ((marijuana)) cannabis licenses.

(c)(i) A ((marijuana)) cannabis retailer's license is subject to forfeiture in accordance with rules adopted by the board pursuant to this section.

(ii) The board shall adopt rules to establish a license forfeiture process for a licensed ((marijuana)) cannabis retailer that is not fully operational and open to the public within a specified period from the date of license issuance, as established by the board, subject to the following restrictions:

(A) No ((marijuana)) cannabis retailer's license may be subject to forfeiture within the first nine months of license issuance; and

(B) The board must require license forfeiture on or before twenty-four calendar months of license issuance if a ((marijuana)) cannabis retailer is not fully operational and open to the public, unless the board determines that circumstances out of the licensee's control are preventing the licensee from becoming fully operational and that, in the board's discretion, the circumstances warrant extending the forfeiture period beyond twenty-four calendar months.

(iii) The board has discretion in adopting rules under this subsection (3)(c).

(iv) This subsection (3)(c) applies to ((marijuana)) cannabis retailer's licenses issued before and after July 23, 2017. However, no license of a ((marijuana)) cannabis retailer that otherwise meets the conditions for license forfeiture established pursuant to this subsection (3)(c) may be subject to forfeiture within the first nine calendar months of July 23, 2017.

(v) The board may not require license forfeiture if the licensee has been incapable of opening a fully operational retail ((marijuana)) cannabis business due to actions by the city, town, or county with jurisdiction over the licensee that include any of the following:

(A) The adoption of a ban or moratorium that prohibits the opening of a retail ((marijuana)) cannabis business; or

(B) The adoption of an ordinance or regulation related to zoning, business licensing, land use, or other regulatory measure that has the effect of preventing a licensee from receiving an occupancy permit from the jurisdiction or which otherwise prevents a licensed ((marijuana)) cannabis retailer from becoming operational.

(d) The board may issue ((marijuana)) cannabis retailer licenses pursuant to this chapter and RCW 69.50.335.

**Sec. 55.** RCW 69.50.326 and 2018 c 132 s 1 are each amended to read as follows:

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

lawfully produced by, or purchased from, a producer or processor licensed under this chapter.

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

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

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

(3) Subject to the requirements of this subsection (3), the ~~((liquor and cannabis))~~ board may enact rules necessary to implement the requirements of this section. Such rule making is limited to regulations pertaining to laboratory testing and product safety standards for those cannabidiol products used by licensed producers and processors in the manufacture of ~~((marijuana))~~ cannabis products marketed by licensed retailers under this chapter ~~((69.50 RCW))~~. The purpose of such rule making must be to ensure the safety and purity of cannabidiol products used by ~~((marijuana))~~ cannabis producers and processors licensed under this chapter ~~((69.50 RCW))~~ and incorporated into products sold by licensed recreational ~~((marijuana))~~ cannabis retailers. This rule-making authority does not include the authority to enact rules regarding either the production or processing practices of the industrial hemp industry or any cannabidiol products that are sold or marketed outside of the regulatory framework established under this chapter ~~((69.50 RCW))~~.

**Sec. 56.** RCW 69.50.327 and 2020 c 133 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, ~~((marijuana))~~ cannabis processors may incorporate in ~~((marijuana))~~ cannabis vapor products a characterizing flavor if the characterizing flavor is derived from botanical terpenes naturally occurring in the cannabis plant, regardless of source, and if the characterizing flavor mimics the terpene profile found in a cannabis plant. Characterizing flavors authorized under this section do not include any synthetic terpenes.

(2) If the board determines a characterizing flavor otherwise authorized under this section may pose a risk to public health or youth access, the board may, by rule adopted under RCW 69.50.342, prohibit the use in ~~((marijuana))~~ cannabis vapor products of such a characterizing flavor.

**Sec. 57.** RCW 69.50.328 and 2013 c 3 s 5 are each amended to read as follows:

Neither a licensed ~~((marijuana))~~ cannabis producer nor a licensed ~~((marijuana))~~ cannabis processor shall have a direct or indirect financial interest in a licensed ~~((marijuana))~~ cannabis retailer.

**Sec. 58.** RCW 69.50.331 and 2020 c 154 s 1 are each amended to read as follows:

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver ~~((marijuana))~~ cannabis, useable



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7)(a) Before the board issues a new or renewed license to an applicant it must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns, or to the

tribal government if the application is for a license within Indian country, or to the port authority if the application for a license is located on property owned by a port authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 59.** RCW 69.50.334 and 2015 2nd sp.s. c 4 s 201 are each amended to read as follows:

(1) The action, order, or decision of the ~~((state liquor and cannabis))~~ board as to any denial of an application for the reissuance of a license to produce, process, or sell ~~((marijuana))~~ cannabis, or as to any revocation, suspension, or modification of any license to produce, process, or sell ~~((marijuana))~~ cannabis, or as to the administrative review of a notice of unpaid trust fund taxes under RCW 69.50.565, must be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(2) An opportunity for a hearing may be provided to an applicant for the reissuance of a license prior to the disposition of the application, and if no opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(3) An opportunity for a hearing must be provided to a licensee prior to a revocation or modification of any license and, except as provided in subsection (6) of this section, prior to the suspension of any license.

(4) An opportunity for a hearing must be provided to any person issued a notice of unpaid trust fund taxes under RCW 69.50.565.

(5) No hearing may be required under this section until demanded by the applicant, licensee, or person issued a notice of unpaid trust fund taxes under RCW 69.50.565.

(6) The (~~(state liquor and cannabis)~~) board may summarily suspend a license for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order. Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year from the first day of the initial summary suspension in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty-day period due to actions by the licensee. The (~~(state liquor and cannabis)~~) board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the (~~(state liquor and cannabis)~~) board.

**Sec. 60.** RCW 69.50.335 and 2021 c 169 s 2 are each amended to read as follows:

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

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

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

(3)(a) In determining the issuance of a license among applicants, the board may prioritize applicants based on the extent to which the application addresses the components of the social equity plan.

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

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

(ii) The application does not otherwise meet the licensing requirements of this chapter.

(4) The board may adopt rules to implement this section. Rules may include strategies for receiving advice on the social equity program from individuals the program is intended to benefit. Rules may also require that licenses awarded under this section be transferred or sold only to individuals or groups of individuals who comply with the requirements for initial licensure as a social equity applicant with a social equity plan under this section.

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

(6) For the purposes of this section:

~~(a) ("Cannabis" has the meaning provided for "marijuana" under this chapter.~~

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

(i) The area has a high poverty rate;

(ii) The area has a high rate of participation in income-based federal or state programs;

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

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

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

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

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

(iii) An applicant who meets criteria defined in rule by the board after consultation with the commission on African American affairs and other commissions, agencies, and community members as determined by the board.

~~((d))~~ (c) "Social equity goals" means:

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

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

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

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

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

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

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

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

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

**Sec. 61.** RCW 69.50.336 and 2021 c 169 s 3 are each amended to read as follows:

(1) A legislative task force on social equity in cannabis is established. The purpose of the task force is to make recommendations to the board including but not limited to establishing a social equity program for the issuance and reissuance of existing retail, processor, and producer cannabis licenses, and to advise the governor and the legislature on policies that will facilitate development of a cannabis social equity program.

(2) The members of the task force are 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 president of the senate and the speaker of the house of representatives shall jointly appoint:

(i) One member from each of the following:

(A) The commission on African American affairs;

(B) The commission on Hispanic affairs;

(C) The governor's office of Indian affairs;

(D) An organization representing the African American community;

(E) An organization representing the Latinx community;

(F) A labor organization involved in the cannabis industry;

(G) The liquor and cannabis board;

(H) The department of commerce;

(I) The office of the attorney general; and

(J) The association of Washington cities;

(ii) Two members that currently hold a cannabis retail license;

(iii) Two members that currently hold a producer license; and

(iv) Two members that currently hold a processor license.

(3) In addition to the members appointed to the task force under subsection (2) of this section, individuals representing other sectors may be invited by the chair of the task force, in consultation with the other appointed members of the task force, to participate in an advisory capacity in meetings of the task force.

(a) Individuals participating in an advisory capacity under this subsection are not members of the task force, may not vote, and are not subject to the appointment process established in this section.

(b) There is no limit to the number of individuals who may participate in task force meetings in an advisory capacity under this subsection.

(c) A majority of the task force members constitutes a quorum. If a member has not been designated for a position set forth in this section, that position may not be counted for the purpose of determining a quorum.

(4) The task force shall hold its first meeting by July 1, 2020. The task force shall elect a chair from among its legislative members at the first meeting. The election of the chair must be by a majority vote of the task force members who are present at the meeting. The chair of the task force is responsible for arranging subsequent meetings and developing meeting agendas.

(5) Staff support for the task force, including arranging the first meeting of the task force and assisting the chair of the task force in arranging subsequent meetings, must be provided by the health equity council of the governor's interagency (~~(coordinating)) coordinating~~ council on health disparities. The responsibility for providing staff support for the task force must be transferred to the office of equity created under chapter 43.06D RCW when requested by the office of equity.

(6) Legislative members of the task force may 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) The task force is a class one group under chapter 43.03 RCW.

(8) A public comment period must be provided at every meeting of the task force.

(9) The task force shall submit one or more reports on recommended policies that will facilitate the development of a cannabis social equity program in Washington to the governor, the board, and the appropriate committees of the legislature. The task force is encouraged to submit individual recommendations, as soon as possible, to facilitate the board's early work to implement the recommendations. The final recommendations must be submitted by December 9, 2022. The recommendations must include:

(a) Factors the board must consider in distributing the licenses currently available from cannabis retailer licenses that have been subject to forfeiture, revocation, or cancellation by the board, or cannabis retailer licenses that were not previously issued by the board but could have been issued without exceeding the limit on the statewide number of cannabis retailer licenses established by the board before January 1, 2020;

(b) Whether any additional cannabis producer, processor, or retailer licenses should be issued beyond the total number of licenses that have been issued as of June 11, 2020. For purposes of determining the total number of licenses issued as of June 11, 2020, the total number includes licenses that have been forfeited, revoked, or canceled;

(c) The social equity impact of altering residential cannabis agriculture regulations;

(d) The social equity impact of shifting primary regulation of cannabis production from the board to the department of agriculture, including potential impacts to the employment rights of workers;



(e) The social equity impact of removing nonviolent cannabis-related felonies and misdemeanors from the existing point system used to determine if a person qualifies for obtaining or renewing a cannabis license;

(f) Whether to create workforce training opportunities for underserved communities to increase employment opportunities in the cannabis industry;

(g) The social equity impact of creating new cannabis license types; and

(h) Recommendations for the cannabis social equity technical assistance grant program created under RCW 43.330.540.

(10) The board may adopt rules to implement the recommendations of the task force. However, any recommendation to increase the number of retail outlets above the current statewide limit of retail outlets, established by the board before January 1, 2020, must be approved by the legislature.

(11) ~~(For the purposes of this section, "cannabis" has the meaning provided for "marijuana" under this chapter.~~

~~(12))~~ This section expires June 30, 2023.

**Sec. 62.** RCW 69.50.339 and 2013 c 3 s 8 are each amended to read as follows:

(1) If the ~~((state liquor control))~~ board approves, a license to produce, process, or sell ~~((marijuana))~~ cannabis may be transferred, without charge, to the surviving spouse or domestic partner of a deceased licensee if the license was issued in the names of one or both of the parties. For the purpose of considering the qualifications of the surviving party to receive a ~~((marijuana))~~ cannabis producer's, ~~((marijuana))~~ cannabis processor's, or ~~((marijuana))~~ cannabis retailer's license, the ~~((state liquor control))~~ board may require a criminal history record information check. The ~~((state liquor control))~~ board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The ~~((state liquor control))~~ board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation.

(2) The proposed sale of more than ten percent of the outstanding or issued stock of a corporation licensed under chapter 3, Laws of 2013, or any proposed change in the officers of such a corporation, must be reported to the ~~((state liquor control))~~ board, and ~~((state liquor control))~~ board approval must be obtained before the changes are made. A fee of seventy-five dollars will be charged for the processing of the change of stock ownership or corporate officers.

**Sec. 63.** RCW 69.50.342 and 2020 c 133 s 3 are each amended to read as follows:

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

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

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

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

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

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

(f) Retail outlet locations and hours of operation;

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

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

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

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

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

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

(m) The prohibition of any type of device used in conjunction with a ~~((marijuana))~~ cannabis vapor product and the prohibition of the use of any type of additive, solvent, ingredient, or compound in the production and processing of ~~((marijuana))~~ cannabis products, including ~~((marijuana))~~ cannabis vapor products, when the board determines, following consultation with the department of health or any other authority the board deems appropriate, that the device, additive, solvent, ingredient, or compound may pose a risk to public health or youth access; and

(n) Requirements for processors to submit under oath to the department of health a complete list of all constituent substances and the amount and sources thereof in each ~~((marijuana))~~ cannabis vapor product, including all additives, thickening agents, preservatives, compounds, and any other substance used in the production and processing of each ~~((marijuana))~~ cannabis vapor product.

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

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

**Sec. 64.** RCW 69.50.345 and 2019 c 393 s 2 are each amended to read as follows:

The ~~((state liquor and cannabis))~~ board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

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

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

(b) The ~~((state liquor and cannabis))~~ board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and increase the percentage of production space for those ~~((marijuana))~~ cannabis producers who intend to grow plants for ~~((marijuana))~~ cannabis retailers holding medical ~~((marijuana))~~ cannabis endorsements if the ~~((marijuana))~~ cannabis producer designates the increased production space to plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products to be sold to qualifying patients. If

current ~~((marijuana))~~ cannabis producers do not use all the increased production space, the ~~((state liquor and cannabis))~~ board may reopen the license period for new ~~((marijuana))~~ cannabis producer license applicants but only to those ~~((marijuana))~~ cannabis producers who agree to grow plants for ~~((marijuana))~~ cannabis retailers holding medical ~~((marijuana))~~ cannabis endorsements. Priority in licensing must be given to ~~((marijuana))~~ cannabis producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new ~~((marijuana))~~ cannabis producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical ~~((marijuana))~~ cannabis authorization database established in RCW 69.51A.230;

(2) Determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(a) Population distribution;

(b) Security and safety issues;

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

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

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

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

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

(6) In making the determinations required by this section, the ~~((state liquor and cannabis))~~ board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, useable ~~((marijuana, and~~

~~marijuana-infused~~) cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

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

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

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

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

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

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

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

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

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

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

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

**Sec. 65.** RCW 69.50.345 and 2019 c 393 s 2 and 2019 c 277 s 6 are each reenacted and amended to read as follows:

The ~~((state liquor and cannabis))~~ board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

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

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

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

(2) Determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(a) Population distribution;

(b) Security and safety issues;

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

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

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

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

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

(6) In making the determinations required by this section, the (~~(state liquor and cannabis)~~) board shall take into consideration:

(a) Security and safety issues;

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 66.** RCW 69.50.346 and 2019 c 393 s 3 are each amended to read as follows:

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

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

(b) The lot numbers of the product;

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

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

(e) Language required by RCW 69.04.480; and

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

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

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



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

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

(3) The labels and labeling may not be:

(a) False or misleading; or

(b) Especially appealing to children.

(4) The label is not required to include the business or trade name or Washington state unified business identifier number of, or any information about, the ~~((marijuana))~~ cannabis retailer selling the ~~((marijuana))~~ cannabis product.

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

(a) Directions or recommended conditions of use; or

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

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

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

**Sec. 67.** RCW 69.50.348 and 2019 c 277 s 1 are each amended to read as follows:

(1) On a schedule determined by the ~~((state liquor and cannabis))~~ board, every licensed ~~((marijuana))~~ cannabis producer and processor must submit representative samples of ~~((marijuana))~~ cannabis, useable ~~((marijuana, or marijuana-infused))~~ 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 liquor and cannabis))~~ board, for inspection and testing to certify compliance with quality assurance and product standards adopted by the ~~((state liquor and cannabis))~~ board under RCW 69.50.342. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee submitting the sample.

(2) Licensees must submit the results of inspection and testing for quality assurance and product standards required under subsection (1) of this section to the ~~((state liquor and cannabis))~~ board on a form developed by the ~~((state liquor and cannabis))~~ board.

(3) If a representative sample inspected and tested under this section does not meet the applicable quality assurance and product standards established by the ~~((state liquor and cannabis))~~ board, the entire lot from which the sample was taken must be destroyed.

(4) The (~~(state liquor and cannabis)~~) board may adopt rules necessary to implement this section.

**Sec. 68.** RCW 69.50.348 and 2019 c 277 s 2 are each amended to read as follows:

(1) On a schedule determined by the (~~(state liquor and cannabis)~~) board, every licensed (~~(marijuana)~~) cannabis producer and processor must submit representative samples of (~~(marijuana)~~) cannabis, useable (~~(marijuana, or marijuana-infused)~~) 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, for inspection and testing to certify compliance with quality assurance and product standards adopted by the (~~(state liquor and cannabis)~~) board under RCW 69.50.342. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee submitting the sample.

(2) Licensees must submit the results of inspection and testing for quality assurance and product standards required under RCW 69.50.342 to the (~~(state liquor and cannabis)~~) board on a form developed by the (~~(state liquor and cannabis)~~) board.

(3) If a representative sample inspected and tested under this section does not meet the applicable quality assurance and product standards established by the (~~(state liquor and cannabis)~~) board, the entire lot from which the sample was taken must be destroyed.

(4)(a) The department of ecology may determine, assess, and collect annual fees sufficient to cover the direct and indirect costs of implementing a state (~~(marijuana)~~) cannabis product testing laboratory accreditation 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 (~~(marijuana)~~) cannabis product testing laboratories. The department of ecology 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 must review and update its fee schedule biennially. The costs of (~~(marijuana)~~) cannabis product testing laboratory accreditation are those incurred by the department of ecology 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) Evaluating the protocols and procedures used by a laboratory;
- (ii) Performing on-site audits;
- (iii) Evaluating participation and successful completion of proficiency testing;
- (iv) Determining the capability of a laboratory to produce accurate and reliable test results; and
- (v) Such other accreditation activities as the department of ecology deems appropriate.

(b) The state (~~(marijuana)~~) cannabis product testing laboratory accreditation program initial development costs must be fully paid from the dedicated (~~(marijuana)~~) cannabis account created in RCW 69.50.530.

(5) The department of ecology and the (~~(liquor and cannabis)~~) board must act cooperatively to ensure effective implementation and administration of this section.

(6) All fees collected under this section must be deposited in the dedicated (~~(marijuana)~~) cannabis account created in RCW 69.50.530.

**Sec. 69.** RCW 69.50.351 and 2013 c 3 s 12 are each amended to read as follows:

Except as provided by chapter 42.52 RCW, no member of the (~~(state liquor control)~~) board and no employee of the (~~(state liquor control)~~) board shall have any interest, directly or indirectly, in the producing, processing, or sale of (~~(marijuana)~~) cannabis, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused products, or derive any profit or remuneration from the sale of (~~(marijuana)~~) cannabis, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused products other than the salary or wages payable to him or her in respect of his or her office or position, and shall receive no gratuity from any person in connection with the business.

**Sec. 70.** RCW 69.50.354 and 2015 c 70 s 9 are each amended to read as follows:

There may be licensed, in no greater number in each of the counties of the state than as the (~~(state liquor and cannabis)~~) board shall deem advisable, retail outlets established for the purpose of making (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, and marijuana-infused)~~) cannabis, and cannabis-infused products available for sale to adults aged twenty-one and over. Retail sale of (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, and marijuana-infused)~~) cannabis, and cannabis-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed (~~(marijuana)~~) cannabis retailer or retail outlet employee, shall not be a criminal or civil offense under Washington state law.

**Sec. 71.** RCW 69.50.357 and 2017 c 317 s 13 and 2017 c 131 s 1 are each reenacted and amended to read as follows:

(1)(a) Retail outlets may not sell products or services other than (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, marijuana-infused)~~) cannabis, cannabis-infused products, or paraphernalia intended for the storage or use of (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused products.

(b)(i) Retail outlets may receive lockable boxes, intended for the secure storage of (~~(marijuana)~~) cannabis products and paraphernalia, and related literature as a donation from another person or entity, that is not a (~~(marijuana)~~) cannabis producer, processor, or retailer, for donation to their customers.

(ii) Retail outlets may donate the lockable boxes and provide the related literature to any person eligible to purchase (~~(marijuana)~~) cannabis products under subsection (2) of this section. Retail outlets may not use the donation of lockable boxes or literature as an incentive or as a condition of a recipient's purchase of a (~~(marijuana)~~) cannabis product or paraphernalia.

(iii) Retail outlets may also purchase and sell lockable boxes, provided that the sales price is not less than the cost of acquisition.

(2) Licensed (~~(marijuana)~~) cannabis retailers may not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter

or remain on the premises of a retail outlet. However, qualifying patients between eighteen and twenty-one years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical (~~(marijuana)~~) cannabis endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of eighteen with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical (~~(marijuana)~~) cannabis endorsement, but may not purchase products for their personal medical use.

(3)(a) Licensed (~~(marijuana)~~) cannabis retailers must ensure that all employees are trained on the rules adopted to implement this chapter, identification of persons under the age of twenty-one, and other requirements adopted by the (~~(state liquor and cannabis)~~) board to ensure that persons under the age of twenty-one are not permitted to enter or remain on the premises of a retail outlet.

(b) Licensed (~~(marijuana)~~) cannabis retailers with a medical (~~(marijuana)~~) cannabis endorsement must ensure that all employees are trained on the subjects required by (a) of this subsection as well as identification of authorizations and recognition cards. Employees must also be trained to permit qualifying patients who hold recognition cards and are between the ages of eighteen and twenty-one to enter the premises and purchase (~~(marijuana)~~) cannabis for their personal medical use and to permit qualifying patients who are under the age of eighteen with a recognition card to enter the premises if accompanied by their designated providers.

(4) Except for the purposes of disposal as authorized by the (~~(state liquor and cannabis)~~) board, no licensed (~~(marijuana)~~) cannabis retailer or employee of a retail outlet may open or consume, or allow to be opened or consumed, any (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused product on the outlet premises.

(5) The (~~(state liquor and cannabis)~~) board must fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated (~~(marijuana)~~) cannabis account created under RCW 69.50.530.

**Sec. 72.** RCW 69.50.360 and 2015 c 207 s 6 and 2015 c 70 s 13 are each reenacted and amended to read as follows:

The following acts, when performed by a validly licensed (~~(marijuana)~~) cannabis retailer or employee of a validly licensed retail outlet in compliance with rules adopted by the (~~(state liquor and cannabis)~~) 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 (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused products that have been properly packaged and labeled from a (~~(marijuana)~~) cannabis processor validly licensed under this chapter;

(2) Possession of quantities of (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused products that do not exceed the maximum amounts established by the (~~(state liquor and cannabis)~~) 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 (~~(marijuana)~~) cannabis

concentrates, useable (~~((marijuana, or marijuana-infused))~~) cannabis, or cannabis-infused product to any person twenty-one years of age or older:

- (a) One ounce of useable (~~((marijuana))~~) cannabis;
- (b) Sixteen ounces of (~~((marijuana-infused))~~) cannabis-infused product in solid form;
- (c) Seventy-two ounces of (~~((marijuana-infused))~~) cannabis-infused product in liquid form; or
- (d) Seven grams of (~~((marijuana))~~) cannabis concentrate; and
- (4) Purchase and receipt of (~~((marijuana))~~) cannabis concentrates, useable (~~((marijuana, or marijuana-infused))~~) 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. 73.** RCW 69.50.363 and 2015 c 207 s 7 are each amended to read as follows:

The following acts, when performed by a validly licensed (~~((marijuana))~~) cannabis processor or employee of a validly licensed (~~((marijuana))~~) cannabis processor in compliance with rules adopted by the (~~((state liquor control))~~) 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 (~~((marijuana))~~) cannabis that has been properly packaged and labeled from a (~~((marijuana))~~) cannabis producer validly licensed under chapter 3, Laws of 2013;
- (2) Possession, processing, packaging, and labeling of quantities of (~~((marijuana))~~) cannabis, useable (~~((marijuana, and marijuana-infused))~~) cannabis, and cannabis-infused products that do not exceed the maximum amounts established by the (~~((state liquor control))~~) board under RCW 69.50.345(4);
- (3) Delivery, distribution, and sale of useable (~~((marijuana or marijuana-infused))~~) cannabis or cannabis-infused products to a (~~((marijuana))~~) cannabis retailer validly licensed under chapter 3, Laws of 2013; and
- (4) Delivery, distribution, and sale of useable (~~((marijuana, marijuana))~~) cannabis, cannabis concentrates, or (~~((marijuana-infused))~~) cannabis-infused products to a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490.

**Sec. 74.** RCW 69.50.366 and 2017 c 317 s 6 are each amended to read as follows:

The following acts, when performed by a validly licensed (~~((marijuana))~~) cannabis producer or employee of a validly licensed (~~((marijuana))~~) cannabis producer in compliance with rules adopted by the (~~((state liquor and cannabis))~~) board to implement and enforce this chapter, do not constitute criminal or civil offenses under Washington state law:

- (1) Production or possession of quantities of (~~((marijuana))~~) cannabis that do not exceed the maximum amounts established by the (~~((state liquor and cannabis))~~) board under RCW 69.50.345(3);
- (2) Delivery, distribution, and sale of (~~((marijuana))~~) cannabis to a (~~((marijuana))~~) cannabis processor or another (~~((marijuana))~~) cannabis producer validly licensed under this chapter;

(3) Delivery, distribution, and sale of immature plants or clones and ((marijuana)) cannabis seeds to a licensed ((marijuana)) cannabis researcher, and to receive or purchase immature plants or clones and seeds from a licensed ((marijuana)) cannabis researcher; and

(4) Delivery, distribution, and sale of ((marijuana)) cannabis or useable ((marijuana)) cannabis to a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490.

**Sec. 75.** RCW 69.50.369 and 2017 c 317 s 14 are each amended to read as follows:

(1) No licensed ((marijuana)) cannabis producer, processor, researcher, or retailer may place or maintain, or cause to be placed or maintained, any sign or other advertisement for a ((marijuana)) cannabis business or ((marijuana)) cannabis product, including useable ((marijuana, marijuana)) cannabis, cannabis concentrates, or ((marijuana-infused)) cannabis-infused product, in any form or through any medium whatsoever within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(2) Except for the use of billboards as authorized under this section, licensed ((marijuana)) cannabis retailers may not display any signage outside of the licensed premises, other than two signs identifying the retail outlet by the licensee's business or trade name, stating the location of the business, and identifying the nature of the business. Each sign must be no larger than one thousand six hundred square inches and be permanently affixed to a building or other structure. The location and content of the retail ((marijuana)) cannabis signs authorized under this subsection are subject to all other requirements and restrictions established in this section for indoor signs, outdoor signs, and other ((marijuana-related)) cannabis-related advertising methods.

(3) A ((marijuana)) cannabis licensee may not utilize transit advertisements for the purpose of advertising its business or product line. "Transit advertisements" means advertising on or within private or public vehicles and all advertisements placed at, on, or within any bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location.

(4) A ((marijuana)) cannabis licensee may not engage in advertising or other marketing practice that specifically targets persons residing outside of the state of Washington.

(5) All signs, billboards, or other print advertising for ((marijuana)) cannabis businesses or ((marijuana)) cannabis products must contain text stating that ((marijuana)) cannabis products may be purchased or possessed only by persons twenty-one years of age or older.

(6) A ((marijuana)) cannabis licensee may not:

(a) Take any action, directly or indirectly, to target youth in the advertising, promotion, or marketing of ((marijuana and marijuana)) cannabis and cannabis products, or take any action the primary purpose of which is to initiate, maintain, or increase the incidence of youth use of ((marijuana or marijuana)) cannabis or cannabis products;

(b) Use objects such as toys or inflatables, movie or cartoon characters, or any other depiction or image likely to be appealing to youth, where such objects,

images, or depictions indicate an intent to cause youth to become interested in the purchase or consumption of ~~((marijuana))~~ cannabis products; or

(c) Use or employ a commercial mascot outside of, and in proximity to, a licensed ~~((marijuana))~~ cannabis business. A "commercial mascot" means live human being, animal, or mechanical device used for attracting the attention of motorists and passersby so as to make them aware of ~~((marijuana))~~ cannabis products or the presence of a ~~((marijuana))~~ cannabis business. Commercial mascots include, but are not limited to, inflatable tube displays, persons in costume, or wearing, holding, or spinning a sign with a ~~((marijuana-related))~~ cannabis-related commercial message or image, where the intent is to draw attention to a ~~((marijuana))~~ cannabis business or its products.

(7) A ~~((marijuana))~~ cannabis licensee that engages in outdoor advertising is subject to the advertising requirements and restrictions set forth in this subsection (7) and elsewhere in this chapter.

(a) All outdoor advertising signs, including billboards, are limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business. Such signs may not contain any depictions of ~~((marijuana))~~ cannabis plants, ~~((marijuana))~~ cannabis products, or images that might be appealing to children. The ~~((state liquor and cannabis))~~ board is granted rule-making authority to regulate the text and images that are permissible on outdoor advertising. Such rule making must be consistent with other administrative rules generally applicable to the advertising of ~~((marijuana))~~ cannabis businesses and products.

(b) Outdoor advertising is prohibited:

(i) On signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, farmers markets, and video game arcades, whether any of the foregoing are open air or enclosed, but not including any such sign or placard located in an adult only facility; and

(ii) Billboards that are visible from any street, road, highway, right-of-way, or public parking area are prohibited, except as provided in (c) of this subsection.

(c) Licensed retail outlets may use a billboard or outdoor sign solely for the purpose of identifying the name of the business, the nature of the business, and providing the public with directional information to the licensed retail outlet. Billboard advertising is subject to the same requirements and restrictions as set forth in (a) of this subsection.

(d) Advertising signs within the premises of a retail ~~((marijuana))~~ cannabis business outlet that are visible to the public from outside the premises must meet the signage regulations and requirements applicable to outdoor signs as set forth in this section.

(e) The restrictions and regulations applicable to outdoor advertising under this section are not applicable to:

(i) An advertisement inside a licensed retail establishment that sells ~~((marijuana))~~ cannabis products that is not placed on the inside surface of a window facing outward; or

(ii) An outdoor advertisement at the site of an event to be held at an adult only facility that is placed at such site during the period the facility or enclosed area constitutes an adult only facility, but in no event more than fourteen days

before the event, and that does not advertise any ((marijuana)) cannabis product other than by using a brand name to identify the event.

(8) Merchandising within a retail outlet is not advertising for the purposes of this section.

(9) This section does not apply to a noncommercial message.

(10)(a) The ((state liquor and cannabis)) board must:

(i) Adopt rules implementing this section and specifically including provisions regulating the billboards and outdoor signs authorized under this section; and

(ii) Fine a licensee one thousand dollars for each violation of this section until the ((state liquor and cannabis)) board adopts rules prescribing penalties for violations of this section. The rules must establish escalating penalties including fines and up to suspension or revocation of a ((marijuana)) cannabis license for subsequent violations.

(b) Fines collected under this subsection must be deposited into the dedicated ((marijuana)) cannabis account created under RCW 69.50.530.

(11) A city, town, or county may adopt rules of outdoor advertising by licensed ((marijuana)) cannabis retailers that are more restrictive than the advertising restrictions imposed under this chapter. Enforcement of restrictions to advertising by a city, town, or county is the responsibility of the city, town, or county.

**Sec. 76.** RCW 69.50.372 and 2017 c 317 s 3 and 2017 c 316 s 3 are each reenacted and amended to read as follows:

(1) A ((marijuana)) cannabis research license is established that permits a licensee to produce, process, and possess ((marijuana)) cannabis for the following limited research purposes:

(a) To test chemical potency and composition levels;

(b) To conduct clinical investigations of ((marijuana-derived)) cannabis-derived drug products;

(c) To conduct research on the efficacy and safety of administering ((marijuana)) cannabis as part of medical treatment; and

(d) To conduct genomic or agricultural research.

(2) As part of the application process for a ((marijuana)) cannabis research license, an applicant must submit to the ((liquor and cannabis)) board's designated scientific reviewer a description of the research that is intended to be conducted. The ((liquor and cannabis)) board must select a scientific reviewer to review an applicant's research project and determine that it meets the requirements of subsection (1) of this section, as well as assess the following:

(a) Project quality, study design, value, or impact;

(b) Whether applicants have the appropriate personnel, expertise, facilities/infrastructure, funding, and human/animal/other federal approvals in place to successfully conduct the project; and

(c) Whether the amount of ((marijuana)) cannabis to be grown by the applicant is consistent with the project's scope and goals.

If the scientific reviewer determines that the research project does not meet the requirements of subsection (1) of this section, the application must be denied.

(3) A ((marijuana)) cannabis research licensee may only sell ((marijuana)) cannabis grown or within its operation to other ((marijuana)) cannabis research



licensees. The (~~(liquor and cannabis)~~) board may revoke a (~~(marijuana)~~) cannabis research license for violations of this subsection.

(4) A (~~(marijuana)~~) cannabis research licensee may contract with the University of Washington or Washington State University to perform research in conjunction with the university. All research projects, not including those projects conducted pursuant to a contract entered into under RCW 28B.20.502(3), must be approved by the scientific reviewer and meet the requirements of subsection (1) of this section.

(5) In establishing a (~~(marijuana)~~) cannabis research license, the (~~(liquor and cannabis)~~) board may adopt rules on the following:

(a) Application requirements;

(b) (~~(Marijuana)~~) Cannabis research license renewal requirements, including whether additional research projects may be added or considered;

(c) Conditions for license revocation;

(d) Security measures to ensure (~~(marijuana)~~) cannabis is not diverted to purposes other than research;

(e) Amount of plants, useable (~~(marijuana, marijuana)~~) cannabis, cannabis concentrates, or (~~(marijuana-infused)~~) cannabis-infused products a licensee may have on its premises;

(f) Licensee reporting requirements;

(g) Conditions under which (~~(marijuana)~~) cannabis grown by licensed (~~(marijuana)~~) cannabis producers and other product types from licensed (~~(marijuana)~~) cannabis processors may be donated to (~~(marijuana)~~) cannabis research licensees; and

(h) Additional requirements deemed necessary by the (~~(liquor and cannabis)~~) board.

(6) The production, processing, possession, delivery, donation, and sale of (~~(marijuana)~~) cannabis, including immature plants or clones and seeds, in accordance with this section, RCW 69.50.366(3), and the rules adopted to implement and enforce this section and RCW 69.50.366(3), by a validly licensed (~~(marijuana)~~) cannabis researcher, shall not be a criminal or civil offense under Washington state law. Every (~~(marijuana)~~) cannabis research license must be issued in the name of the applicant, must specify the location at which the (~~(marijuana)~~) cannabis researcher intends to operate, which must be within the state of Washington, and the holder thereof may not allow any other person to use the license.

(7) The application fee for a (~~(marijuana)~~) cannabis research license is two hundred fifty dollars. The annual fee for issuance and renewal of a (~~(marijuana)~~) cannabis research license is one thousand three hundred dollars. The applicant must pay the cost of the review process directly to the scientific reviewer as designated by the (~~(liquor and cannabis)~~) board.

(8) The scientific reviewer shall review any reports made by (~~(marijuana)~~) cannabis research licensees under (~~(liquor and cannabis)~~) board rule and provide the (~~(liquor and cannabis)~~) board with its determination on whether the research project continues to meet research qualifications under this section.

(9) For the purposes of this section, "scientific reviewer" means an organization that convenes or contracts with persons who have the training and experience in research practice and research methodology to determine whether a project meets the criteria for a (~~(marijuana)~~) cannabis research license under

this section and to review any reports submitted by ~~((marijuana))~~ cannabis research licensees under ~~((liquor and cannabis))~~ board rule. "Scientific reviewers" include, but are not limited to, educational institutions, research institutions, peer review bodies, or such other organizations that are focused on science or research in its day-to-day activities.

**Sec. 77.** RCW 69.50.375 and 2015 c 70 s 10 are each amended to read as follows:

(1) A medical ~~((marijuana))~~ cannabis endorsement to a ~~((marijuana))~~ cannabis retail license is hereby established to permit a ~~((marijuana))~~ cannabis retailer to sell ~~((marijuana))~~ cannabis for medical use to qualifying patients and designated providers. This endorsement also permits such retailers to provide ~~((marijuana))~~ cannabis at no charge, at their discretion, to qualifying patients and designated providers.

(2) An applicant may apply for a medical ~~((marijuana))~~ cannabis endorsement concurrently with an application for a ~~((marijuana))~~ cannabis retail license.

(3) To be issued an endorsement, a ~~((marijuana))~~ cannabis retailer must:

(a) Not authorize the medical use of ~~((marijuana))~~ cannabis for qualifying patients at the retail outlet or permit health care professionals to authorize the medical use of ~~((marijuana))~~ cannabis for qualifying patients at the retail outlet;

(b) Carry ~~((marijuana))~~ cannabis concentrates and ~~((marijuana-infused))~~ cannabis-infused products identified by the department under subsection (4) of this section;

(c) Not use labels or market ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products in a way that make them intentionally attractive to minors;

(d) Demonstrate the ability to enter qualifying patients and designated providers in the medical ~~((marijuana))~~ cannabis authorization database established in RCW 69.51A.230 and issue recognition cards and agree to enter qualifying patients and designated providers into the database and issue recognition cards in compliance with department standards;

(e) Keep copies of the qualifying patient's or designated provider's recognition card, or keep equivalent records as required by rule of the ~~((state liquor and cannabis))~~ board or the department of revenue to document the validity of tax exempt sales; and

(f) Meet other requirements as adopted by rule of the department or the ~~((state liquor and cannabis))~~ board.

(4) The department, in conjunction with the ~~((state liquor and cannabis))~~ board, must adopt rules on requirements for ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana, and marijuana-infused))~~ cannabis, and cannabis-infused products that may be sold, or provided at no charge, to qualifying patients or designated providers at a retail outlet holding a medical ~~((marijuana))~~ cannabis endorsement. These rules must include:

(a) THC concentration, CBD concentration, or low THC, high CBD ratios appropriate for ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products sold to qualifying patients or designated providers;

(b) Labeling requirements including that the labels attached to ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or

cannabis-infused products contain THC concentration, CBD concentration, and THC to CBD ratios;

(c) Other product requirements, including any additional mold, fungus, or pesticide testing requirements, or limitations to the types of solvents that may be used in (~~(marijuana)~~) cannabis processing that the department deems necessary to address the medical needs of qualifying patients;

(d) Safe handling requirements for (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused products; and

(e) Training requirements for employees.

(5) A (~~(marijuana)~~) cannabis retailer holding an endorsement to sell (~~(marijuana)~~) cannabis to qualifying patients or designated providers must train its employees on:

(a) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical (~~(marijuana)~~) cannabis authorization database;

(b) Recognition of valid recognition cards; and

(c) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, and marijuana-infused)~~) cannabis, and cannabis-infused products, available for sale when assisting qualifying patients and designated providers at the retail outlet.

**Sec. 78.** RCW 69.50.378 and 2015 c 70 s 11 are each amended to read as follows:

A (~~(marijuana)~~) cannabis retailer or a (~~(marijuana)~~) cannabis retailer holding a medical (~~(marijuana)~~) cannabis endorsement may sell products with a THC concentration of 0.3 percent or less. (~~(Marijuana)~~) Cannabis retailers holding a medical (~~(marijuana)~~) cannabis endorsement may also provide these products at no charge to qualifying patients or designated providers.

**Sec. 79.** RCW 69.50.380 and 2015 2nd sp.s. c 4 s 211 are each amended to read as follows:

(1) (~~(Marijuana)~~) Cannabis producers, processors, and retailers are prohibited from making sales of any (~~(marijuana or marijuana)~~) cannabis or cannabis product, if the sale of the (~~(marijuana or marijuana)~~) cannabis or cannabis product is conditioned upon the buyer's purchase of any service or (~~(nonmarijuana)~~) noncannabis product. This subsection applies whether the buyer purchases such service or (~~(nonmarijuana)~~) noncannabis product at the time of sale of the (~~(marijuana or marijuana)~~) cannabis or cannabis product, or in a separate transaction.

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

(a) (~~(("Marijuana))~~) "Cannabis product" means "useable (~~(marijuana, "~~) "cannabis, " "cannabis concentrates," and (~~(("marijuana-infused))~~) "cannabis-infused products," as those terms are defined in RCW 69.50.101.

(b) (~~(("Nonmarijuana))~~) "Noncannabis product" includes paraphernalia, promotional items, lighters, bags, boxes, containers, and such other items as may be identified by the (~~(state liquor and cannabis)~~) board.

(c) "Selling price" has the same meaning as in RCW 69.50.535.

(d) "Service" includes memberships and any other services identified by the ~~((state liquor and cannabis))~~ board.

**Sec. 80.** RCW 69.50.382 and 2017 c 317 s 7 are each amended to read as follows:

(1) A licensed ~~((marijuana))~~ cannabis producer, ~~((marijuana))~~ cannabis processor, ~~((marijuana))~~ cannabis researcher, or ~~((marijuana))~~ cannabis retailer, or their employees, in accordance with the requirements of this chapter and the administrative rules adopted thereunder, may use the services of a common carrier subject to regulation under chapters 81.28 and 81.29 RCW and licensed in compliance with the regulations established under RCW 69.50.385, to physically transport or deliver, as authorized under this chapter, ~~((marijuana))~~ cannabis, useable ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, immature plants or clones, ~~((marijuana))~~ cannabis seeds, and ~~((marijuana-infused))~~ cannabis-infused products between licensed ~~((marijuana))~~ cannabis businesses located within the state.

(2) An employee of a common carrier engaged in ~~((marijuana-related))~~ cannabis-related transportation or delivery services authorized under subsection (1) of this section is prohibited from carrying or using a firearm during the course of providing such services, unless:

(a) Pursuant to RCW 69.50.385, the ~~((state liquor and cannabis))~~ board explicitly authorizes the carrying or use of firearms by such employee while engaged in the transportation or delivery services;

(b) The employee has an armed private security guard license issued pursuant to RCW 18.170.040; and

(c) The employee is in full compliance with the regulations established by the ~~((state liquor and cannabis))~~ board under RCW 69.50.385.

(3) A common carrier licensed under RCW 69.50.385 may, for the purpose of transporting and delivering ~~((marijuana))~~ cannabis, useable ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, and ~~((marijuana-infused))~~ cannabis-infused products, utilize Washington state ferry routes for such transportation and delivery.

(4) The possession of ~~((marijuana))~~ cannabis, useable ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, and ~~((marijuana-infused))~~ 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 under, and in accordance with, this section and RCW 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.

**Sec. 81.** RCW 69.50.385 and 2015 2nd sp.s. c 4 s 502 are each amended to read as follows:

(1) The ~~((state liquor and cannabis))~~ board must adopt rules providing for an annual licensing procedure of a common carrier who seeks to transport or deliver ~~((marijuana))~~ cannabis, useable ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, and ~~((marijuana-infused))~~ cannabis-infused products within the state.

(2) The rules for licensing must:

(a) Establish criteria for considering the approval or denial of a common carrier's original application or renewal application;

(b) Provide minimum qualifications for any employee authorized to drive or operate the transportation or delivery vehicle, including a minimum age of at least twenty-one years;

(c) Address the safety of the employees transporting or delivering the products, including issues relating to the carrying of firearms by such employees;

(d) Address the security of the products being transported, including a system of electronically tracking all products at both the point of pickup and the point of delivery; and

(e) Set reasonable fees for the application and licensing process.

(3) The (~~(state liquor and cannabis)~~) board may adopt rules establishing the maximum amounts of (~~(marijuana)~~) cannabis, useable (~~(marijuana, marijuana)~~) cannabis, cannabis concentrates, and (~~(marijuana-infused)~~) cannabis-infused products that may be physically transported or delivered at one time by a common carrier as provided under RCW 69.50.382.

**Sec. 82.** RCW 69.50.390 and 2015 2nd sp.s. c 4 s 1301 are each amended to read as follows:

(1) A retailer licensed under this chapter is prohibited from operating a vending machine, as defined in RCW 82.08.080(3) for the sale of (~~(marijuana)~~) cannabis products at retail or a drive-through purchase facility where (~~(marijuana)~~) cannabis products are sold at retail and dispensed through a window or door to a purchaser who is either in or on a motor vehicle or otherwise located outside of the licensed premises at the time of sale.

(2) The (~~(state liquor and cannabis)~~) board may not issue, transfer, or renew a (~~(marijuana)~~) cannabis retail license for any licensee in violation of the provisions of subsection (1) of this section.

**Sec. 83.** RCW 69.50.395 and 2019 c 380 s 1 are each amended to read as follows:

(1) A licensed (~~(marijuana)~~) cannabis business may enter into an agreement with any person, business, or other entity for:

(a) Any goods or services that are registered as a trademark under federal law, under chapter 19.77 RCW, or under any other state or international trademark law;

(b) Any unregistered trademark, trade name, or trade dress; or

(c) Any trade secret, technology, or proprietary information used to manufacture a cannabis product or used to provide a service related to any (~~(marijuana)~~) cannabis business.

(2) Any agreements entered into by a licensed (~~(marijuana)~~) cannabis business, as authorized under this section, must be disclosed to the (~~(state liquor and cannabis)~~) board and may include:

(a) A royalty fee or flat rate calculated based on sales of each product that includes the intellectual property or was manufactured or sold using the licensed intellectual property or service, provided that the royalty fee is no greater than an amount equivalent to ten percent of the licensed (~~(marijuana)~~) cannabis business's gross sales derived from the sale of such product;

(b) A flat rate or lump sum calculated based on time or milestones;

(c) Terms giving either party exclusivity or qualified exclusivity as it relates to use of the intellectual property;

(d) Quality control standards as necessary to protect the integrity of the intellectual property;

(e) Enforcement obligations to be undertaken by the licensed (~~(marijuana)~~) cannabis business;

(f) Covenants to use the licensed intellectual property; and

(g) Assignment of licensor improvements of the intellectual property.

(3) A person, business, or entity that enters into an agreement with a licensed (~~(marijuana)~~) cannabis business, where both parties to the agreement are in compliance with the terms of this section, is exempt from the requirement to qualify for a (~~(marijuana)~~) cannabis business license for purposes of the agreements authorized by subsection (1) of this section.

(4) All agreements entered into by a licensed (~~(marijuana)~~) cannabis business, as authorized by this section, are subject to the (~~(liquor and cannabis)~~) board's recordkeeping requirements as established by rule.

**Sec. 84.** RCW 69.50.401 and 2019 c 379 s 2 are each amended to read as follows:

(1) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(2) Any person who violates this section with respect to:

(a) A controlled substance classified in Schedule I or II which is a narcotic drug or flunitrazepam, including its salts, isomers, and salts of isomers, classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(b) Amphetamine, including its salts, isomers, and salts of isomers, or methamphetamine, including its salts, isomers, and salts of isomers, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost;

(c) Any other controlled substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW, except as provided in RCW 69.50.475;

(d) A substance classified in Schedule IV, except flunitrazepam, including its salts, isomers, and salts of isomers, is guilty of a class C felony punishable according to chapter 9A.20 RCW; or

(e) A substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3) The production, manufacture, processing, packaging, delivery, distribution, sale, or possession of (~~(marijuana))~~ cannabis in compliance with the terms set forth in RCW 69.50.360, 69.50.363, or 69.50.366 shall not constitute a violation of this section, this chapter, or any other provision of Washington state law.

(4) The fines in this section apply to adult offenders only.

**Sec. 85.** RCW 69.50.4013 and 2021 c 311 s 9 are each amended to read as follows:

(1) It is unlawful for any person to 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 except as otherwise authorized by this chapter.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a misdemeanor.

(3) The prosecutor is encouraged to divert cases under this section for assessment, treatment, or other services.

(4)(a) The possession, by a person twenty-one years of age or older, of useable (~~(marijuana, marijuana))~~ cannabis, cannabis concentrates, or (~~(marijuana-infused))~~ 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 (~~(marijuana))~~ cannabis, useable (~~(marijuana, marijuana))~~ cannabis, cannabis concentrates, and (~~(marijuana-infused))~~ 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.

(5)(a) The delivery by a person twenty-one years of age or older to one or more persons twenty-one years of age or older, during a single twenty-four 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 (~~(marijuana))~~ 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 (~~(marijuana))~~ cannabis;

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

(iii) Thirty-six ounces of (~~(marijuana-infused))~~ cannabis-infused product in liquid form; or

(iv) Three and one-half grams of (~~(marijuana))~~ cannabis concentrates.

(b) The act of delivering (~~(marijuana or a marijuana))~~ cannabis or a cannabis product as authorized under this subsection (5) 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 (~~(marijuana or marijuana)~~) cannabis or cannabis product must be in the original packaging as purchased from the (~~(marijuana)~~) cannabis retailer.

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

(7) The possession by a qualifying patient or designated provider of (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, marijuana-infused)~~) 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.

**Sec. 86.** RCW 69.50.4013 and 2017 c 317 s 15 are each amended to read as follows:

(1) It is unlawful for any person to 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 except as otherwise authorized by this chapter.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3)(a) The possession, by a person twenty-one years of age or older, of useable (~~(marijuana, marijuana)~~) cannabis, cannabis concentrates, or (~~(marijuana-infused)~~) 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 (~~(marijuana)~~) cannabis, useable (~~(marijuana, marijuana)~~) cannabis, cannabis concentrates, and (~~(marijuana-infused)~~) 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 twenty-one years of age or older to one or more persons twenty-one years of age or older, during a single twenty-four 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 (~~(marijuana)~~) 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 (~~(marijuana)~~) cannabis;

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

(iii) Thirty-six ounces of (~~(marijuana-infused)~~) cannabis-infused product in liquid form; or

(iv) Three and one-half grams of (~~(marijuana)~~) cannabis concentrates.



(b) The act of delivering (~~((marijuana or a marijuana))~~) 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 (~~((marijuana or marijuana))~~) cannabis or cannabis product must be in the original packaging as purchased from the (~~((marijuana))~~) cannabis retailer.

(5) No person under twenty-one years of age may possess, manufacture, sell, or distribute (~~((marijuana, marijuana-infused))~~) cannabis, cannabis-infused products, or (~~((marijuana))~~) 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 (~~((marijuana))~~) cannabis concentrates, useable (~~((marijuana, marijuana-infused))~~) 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.

**Sec. 87.** RCW 69.50.4014 and 2021 c 311 s 10 are each amended to read as follows:

Except as provided in RCW 69.50.401(2)(c) or as otherwise authorized by this chapter, any person found guilty of knowing possession of forty grams or less of (~~((marijuana))~~) cannabis is guilty of a misdemeanor. The prosecutor is encouraged to divert cases under this section for assessment, treatment, or other services.

**Sec. 88.** RCW 69.50.4014 and 2015 2nd sp.s. c 4 s 505 are each amended to read as follows:

Except as provided in RCW 69.50.401(2)(c) or as otherwise authorized by this chapter, any person found guilty of possession of forty grams or less of (~~((marijuana))~~) cannabis is guilty of a misdemeanor.

**Sec. 89.** RCW 69.50.408 and 2003 c 53 s 341 are each amended to read as follows:

(1) Any person convicted of a second or subsequent offense under this chapter may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

(2) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to narcotic drugs, (~~((marihuana,))~~) cannabis, depressant, stimulant, or hallucinogenic drugs.

(3) This section does not apply to offenses under RCW 69.50.4013.

**Sec. 90.** RCW 69.50.410 and 2003 c 53 s 342 are each amended to read as follows:

(1) Except as authorized by this chapter it is a class C felony for any person to sell for profit any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of (~~((marihuana))~~) cannabis.

For the purposes of this section only, the following words and phrases shall have the following meanings:

(a) "To sell" means the passing of title and possession of a controlled substance from the seller to the buyer for a price whether or not the price is paid immediately or at a future date.

(b) "For profit" means the obtaining of anything of value in exchange for a controlled substance.

(c) "Price" means anything of value.

(2)(a) Any person convicted of a violation of subsection (1) of this section shall receive a sentence of not more than five years in a correctional facility of the department of social and health services for the first offense.

(b) Any person convicted on a second or subsequent cause, the sale having transpired after prosecution and conviction on the first cause, of subsection (1) of this section shall receive a mandatory sentence of five years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for the second or subsequent violation of subsection (1) of this section.

(3)(a) Any person convicted of a violation of subsection (1) of this section by selling heroin shall receive a mandatory sentence of two years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for such violation.

(b) Any person convicted on a second or subsequent sale of heroin, the sale having transpired after prosecution and conviction on the first cause of the sale of heroin shall receive a mandatory sentence of ten years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for this second or subsequent violation: PROVIDED, That the indeterminate sentence review board under RCW 9.95.040 shall not reduce the minimum term imposed for a violation under this subsection.

(4) Whether or not a mandatory minimum term has expired, an offender serving a sentence under this section may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(~~(4)~~) (1)(c).

(5) In addition to the sentences provided in subsection (2) of this section, any person convicted of a violation of subsection (1) of this section shall be fined in an amount calculated to at least eliminate any and all proceeds or profits directly or indirectly gained by such person as a result of sales of controlled substances in violation of the laws of this or other states, or the United States, up to the amount of five hundred thousand dollars on each count.

(6) Any person, addicted to the use of controlled substances, who voluntarily applies to the department of social and health services for the purpose of participating in a rehabilitation program approved by the department for addicts of controlled substances shall be immune from prosecution for subsection (1) offenses unless a filing of an information or indictment against such person for a violation of subsection (1) of this section is made prior to his or her voluntary participation in the program of the department of social and health services. All applications for immunity under this section shall be sent to the department of social and health services in Olympia. It shall be the duty of the department to stamp each application received pursuant to this section with the date and time of receipt.

(7) This section shall not apply to offenses defined and punishable under the provisions of RCW 69.50.401 through 69.50.4015.

**Sec. 91.** RCW 69.50.412 and 2021 c 311 s 14 are each amended to read as follows:

(1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, or prepare a controlled substance other than ((~~marijuana~~)) cannabis. Any person who violates this subsection is guilty of a misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, or prepare a controlled substance other than ((~~marijuana~~)) cannabis. Any person who violates this subsection is guilty of a misdemeanor.

(3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his or her junior is guilty of a gross misdemeanor.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

(5) It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing blood-borne diseases.

**Sec. 92.** RCW 69.50.4121 and 2013 c 3 s 23 are each amended to read as follows:

(1) Every person who sells or gives, or permits to be sold or given to any person any drug paraphernalia in any form commits a class I civil infraction under chapter 7.80 RCW. For purposes of this subsection, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance other than ((~~marijuana~~)) cannabis. Drug paraphernalia includes, but is not limited to objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cocaine into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Miniature cocaine spoons and cocaine vials;

(f) Chamber pipes;

(g) Carburetor pipes;

(h) Electric pipes;

(i) Air-driven pipes; and

(j) Ice pipes or chillers.

(2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) Nothing in subsection (1) of this section prohibits legal distribution of injection syringe equipment through public health and community based HIV prevention programs, and pharmacies.

**Sec. 93.** RCW 69.50.435 and 2015 c 265 s 37 are each amended to read as follows:

(1) Any person who violates RCW 69.50.401 by manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver a controlled substance listed under RCW 69.50.401 or who violates RCW 69.50.410 by selling for profit any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of (~~marjuana~~) cannabis to a person:

- (a) In a school;
- (b) On a school bus;
- (c) Within one thousand feet of a school bus route stop designated by the school district;
- (d) Within one thousand feet of the perimeter of the school grounds;
- (e) In a public park;
- (f) In a public housing project designated by a local governing authority as a drug-free zone;
- (g) On a public transit vehicle;
- (h) In a public transit stop shelter;
- (i) At a civic center designated as a drug-free zone by the local governing authority; or
- (j) Within one thousand feet of the perimeter of a facility designated under (i) of this subsection, if the local governing authority specifically designates the one thousand foot perimeter may be punished by a fine of up to twice the fine otherwise authorized by this chapter, but not including twice the fine authorized by RCW 69.50.406, or by imprisonment of up to twice the imprisonment otherwise authorized by this chapter, but not including twice the imprisonment authorized by RCW 69.50.406, or by both such fine and imprisonment. The provisions of this section shall not operate to more than double the fine or imprisonment otherwise authorized by this chapter for an offense.

(2) It is not a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place while in a school or school bus or within one thousand feet of the school or school bus route stop, in a public park, in a public housing project designated by a local governing authority as a drug-free zone, on a public transit vehicle, in a public transit stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (1)(i) of this section, if the local governing authority specifically designates the one thousand foot perimeter.

(3) It is not a defense to a prosecution for a violation of this section or any other prosecution under this chapter that persons under the age of eighteen were not present in the school, the school bus, the public park, the public housing project designated by a local governing authority as a drug-free zone, or the public transit vehicle, or at the school bus route stop, the public transit vehicle

stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (1)(i) of this section, if the local governing authority specifically designates the one thousand foot perimeter at the time of the offense or that school was not in session.

(4) It is an affirmative defense to a prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, that no person under eighteen years of age or younger was present in such private residence at any time during the commission of the offense, and that the prohibited conduct did not involve delivering, manufacturing, selling, or possessing with the intent to manufacture, sell, or deliver any controlled substance in RCW 69.50.401 for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. This section shall not be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(5) In a prosecution under this section, a map produced or reproduced by any municipality, school district, county, transit authority engineer, or public housing authority for the purpose of depicting the location and boundaries of the area on or within one thousand feet of any property used for a school, school bus route stop, public park, public housing project designated by a local governing authority as a drug-free zone, public transit vehicle stop shelter, or a civic center designated as a drug-free zone by a local governing authority, or a true copy of such a map, shall under proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas if the governing body of the municipality, school district, county, or transit authority has adopted a resolution or ordinance approving the map as the official location and record of the location and boundaries of the area on or within one thousand feet of the school, school bus route stop, public park, public housing project designated by a local governing authority as a drug-free zone, public transit vehicle stop shelter, or civic center designated as a drug-free zone by a local governing authority. Any map approved under this section or a true copy of the map shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. This section shall not be construed as precluding the prosecution from introducing or relying upon any other evidence or testimony to establish any element of the offense. This section shall not be construed as precluding the use or admissibility of any map or diagram other than the one which has been approved by the governing body of a municipality, school district, county, transit authority, or public housing authority if the map or diagram is otherwise admissible under court rule.

(6) As used in this section the following terms have the meanings indicated unless the context clearly requires otherwise:

(a) "School" has the meaning under RCW 28A.150.010 or 28A.150.020. The term "school" also includes a private school approved under RCW 28A.195.010;

(b) "School bus" means a school bus as defined by the superintendent of public instruction by rule which is owned and operated by any school district and all school buses which are privately owned and operated under contract or otherwise with any school district in the state for the transportation of students.

The term does not include buses operated by common carriers in the urban transportation of students such as transportation of students through a municipal transportation system;

(c) "School bus route stop" means a school bus stop as designated by a school district;

(d) "Public park" means land, including any facilities or improvements on the land, that is operated as a park by the state or a local government;

(e) "Public transit vehicle" means any motor vehicle, streetcar, train, trolley vehicle, or any other device, vessel, or vehicle which is owned or operated by a transit authority and which is used for the purpose of carrying passengers on a regular schedule;

(f) "Transit authority" means a city, county, or state transportation system, transportation authority, public transportation benefit area, public transit authority, or metropolitan municipal corporation within the state that operates public transit vehicles;

(g) "Stop shelter" means a passenger shelter designated by a transit authority;

(h) "Civic center" means a publicly owned or publicly operated place or facility used for recreational, educational, or cultural activities;

(i) "Public housing project" means the same as "housing project" as defined in RCW 35.82.020.

(7) The fines imposed by this section apply to adult offenders only.

**Sec. 94.** RCW 69.50.445 and 2015 2nd sp.s. c 4 s 401 are each amended to read as follows:

(1) It is unlawful to open a package containing ~~((marijuana))~~ cannabis, useable ~~((marijuana, marijuana-infused))~~ cannabis, cannabis-infused products, or ~~((marijuana))~~ cannabis concentrates, or consume ~~((marijuana))~~ cannabis, useable ~~((marijuana, marijuana-infused))~~ cannabis, cannabis-infused products, or ~~((marijuana))~~ cannabis concentrates, in view of the general public or in a public place.

(2) 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.

(3) A person who violates this section is guilty of a class 3 civil infraction under chapter 7.80 RCW.

**Sec. 95.** RCW 69.50.450 and 2015 c 70 s 15 are each amended to read as follows:

(1) Nothing in this chapter permits anyone other than a validly licensed ~~((marijuana))~~ cannabis processor to use butane or other explosive gases to extract or separate resin from ~~((marijuana))~~ cannabis or to produce or process any form of ~~((marijuana))~~ cannabis concentrates or ~~((marijuana-infused))~~ cannabis-infused products that include ~~((marijuana))~~ cannabis concentrates not purchased from a validly licensed ~~((marijuana))~~ cannabis retailer as an ingredient. The extraction or separation of resin from ~~((marijuana))~~ cannabis, the processing of ~~((marijuana))~~ cannabis concentrates, and the processing of ~~((marijuana-infused))~~ cannabis-infused products that include ~~((marijuana))~~ cannabis concentrates not purchased from a validly licensed ~~((marijuana))~~ cannabis retailer as an ingredient by any person other than a validly licensed ~~((marijuana))~~ cannabis processor each constitute manufacture of ~~((marijuana))~~ cannabis

cannabis in violation of RCW 69.50.401. Cooking oil, butter, and other nonexplosive home cooking substances may be used to make ((marijuana)) cannabis extracts for noncommercial personal use.

(2) Except for the use of butane, the ((state liquor and cannabis)) board may not enforce this section until it has adopted the rules required by RCW 69.51A.270.

**Sec. 96.** RCW 69.50.465 and 2015 2nd sp.s. c 4 s 1401 are each amended to read as follows:

(1) It is unlawful for any person to conduct or maintain a ((marijuana)) cannabis club by himself or herself or by associating with others, or in any manner aid, assist, or abet in conducting or maintaining a ((marijuana)) cannabis club.

(2) It is unlawful for any person to conduct or maintain a public place where ((marijuana)) cannabis is held or stored, except as provided for a licensee under this chapter, or consumption of ((marijuana)) cannabis is permitted.

(3) Any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

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

(a) (("Marijuana")) "Cannabis club" means a club, association, or other business, for profit or otherwise, that conducts or maintains a premises for the primary or incidental purpose of providing a location where members or other persons may keep or consume ((marijuana)) cannabis on the premises.

(b) "Public place" means, in addition to the definition provided in RCW 66.04.010, any place to which admission is charged or for which any pecuniary gain is realized by the owner or operator of such place.

**Sec. 97.** RCW 69.50.475 and 2019 c 379 s 1 are each amended to read as follows:

(1) Except as otherwise authorized in this chapter and as provided in subsection (2) of this section, an employee of a retail outlet who sells ((marijuana)) cannabis products to a person under the age of twenty-one years in the course of his or her employment is guilty of a gross misdemeanor.

(2) An employee of a retail outlet may be prosecuted under RCW 69.50.401 or 69.50.406 or any other applicable provision, if the employee sells ((marijuana)) cannabis products to a person the employee knows is under the age of twenty-one and not otherwise authorized to purchase ((marijuana)) cannabis products under this chapter, or if the employee sells or otherwise provides ((marijuana)) cannabis products to a person under the age of twenty-one outside of the course of his or her employment.

**Sec. 98.** RCW 69.50.505 and 2013 c 3 s 25 are each amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them:

(a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

(c) All property which is used, or intended for use, as a container for property described in (a) or (b) of this subsection;

(d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in (a) or (b) of this subsection, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;

(iii) No conveyance is subject to forfeiture under this section if used in the receipt of only an amount of (~~marijuana~~) cannabis for which possession constitutes a misdemeanor under RCW 69.50.4014;

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(v) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW;

(f) All drug paraphernalia(~~21~~) other than paraphernalia possessed, sold, or used solely to facilitate (~~marijuana-related~~) cannabis-related activities that are not violations of this chapter;

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent; and



(h) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(h), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property;

(iii) The possession of ~~((marijuana))~~ cannabis shall not result in the forfeiture of real property unless the ~~((marijuana))~~ cannabis is possessed for commercial purposes that are unlawful under Washington state law, the amount possessed is five or more plants or one pound or more of ~~((marijuana))~~ cannabis, and a substantial nexus exists between the possession of ~~((marijuana))~~ cannabis and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of ~~((marijuana))~~ cannabis possessed by the offender, the sophistication of the activity or equipment used by the offender, whether the offender was licensed to produce, process, or sell ~~((marijuana))~~ cannabis, or was an employee of a licensed producer, processor, or retailer, and other evidence which demonstrates the offender's intent to engage in unlawful commercial activity;

(iv) The unlawful sale of ~~((marijuana))~~ cannabis or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of ~~((marijuana))~~ cannabis or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

(v) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any ~~((board))~~ commission inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A ~~((board))~~ commission inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The ~~((board))~~ commission inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(d), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property. The

hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section.

(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.

(7) When property is forfeited under this chapter the ~~((board))~~ commission or seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(d) Forward it to the drug enforcement administration for disposition.

(8)(a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(b) Each seizing agency shall retain records of forfeited property for at least seven years.

(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(9)(a) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the state general fund.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (15) of this section.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Forfeited property and net proceeds not required to be paid to the state treasurer shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(11) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the ~~((board))~~ commission, the owners of which are unknown, are contraband and shall be summarily forfeited to the ~~((board))~~ commission.

(12) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the ~~((board))~~ commission.

(13) The failure, upon demand by a ~~((board))~~ commission inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he or she is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

(14) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(15)(a) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (7)(b) of this section, only if:

(i) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

(ii) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section;

(A) Only if the funds applied under (a)(ii) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

(B) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty-day period. Nothing in this section requires the claim to be paid by the end of the sixty-day or thirty-day period.

(b) For any claim filed under (a)(ii) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of this chapter or chapter 69.41 or 69.52 RCW; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(16) The landlord's claim for damages under subsection (15) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (7)(b) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (9)(b) of this section.

(17) Subsections (15) and (16) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (15) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

**Sec. 99.** RCW 69.50.515 and 2013 c 133 s 1 are each amended to read as follows:

(1) Upon finding one ounce or less of (~~marijuana~~) cannabis inadvertently left at a retail store holding a pharmacy license, the store manager or employee must promptly notify the local law enforcement agency. After notification to the

local law enforcement agency, the store manager or employee must properly dispose of the ~~((marijuana))~~ cannabis.

(2) For the purposes of this section, "properly dispose" means ensuring that the product is destroyed or rendered incapable of use by another person.

**Sec. 100.** RCW 69.50.530 and 2018 c 299 s 909 are each amended to read as follows:

The dedicated ~~((marijuana))~~ cannabis account is created in the state treasury. All moneys received by the ~~((state liquor and cannabis))~~ board, or any employee thereof, from ~~((marijuana-related))~~ cannabis-related activities must be deposited in the account. Unless otherwise provided in chapter 4, Laws of 2015 2nd sp. sess., all ~~((marijuana))~~ cannabis excise taxes collected from sales of ~~((marijuana))~~ cannabis, useable ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, and ((marijuana-infused)) cannabis-infused products under RCW 69.50.535, and the license fees, penalties, and forfeitures derived under this chapter from ~~((marijuana))~~ cannabis producer, ~~((marijuana))~~ cannabis processor, ~~((marijuana))~~ cannabis researcher, and ~~((marijuana))~~ cannabis retailer licenses, must be deposited in the account. Moneys in the account may only be spent after appropriation. During the 2015-2017 and 2017-2019 fiscal biennia, the legislature may transfer from the dedicated ~~((marijuana))~~ cannabis account to the basic health plan trust account such amounts as reflect the excess fund balance of the account.

**Sec. 101.** RCW 69.50.535 and 2015 2nd sp.s. c 4 s 205 are each amended to read as follows:

(1)(a) There is levied and collected a ~~((marijuana))~~ cannabis excise tax equal to thirty-seven percent of the selling price on each retail sale in this state of ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana, and marijuana-infused))~~ 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 ~~((marijuana))~~ cannabis retail store and in any advertising that includes prices for all useable ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, or ((marijuana-infused)) cannabis-infused products.

(2) All revenues collected from the ~~((marijuana))~~ cannabis excise tax imposed under this section must be deposited each day in the dedicated ~~((marijuana))~~ cannabis account.

(3) 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) 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) "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) "Product" means ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, useable ~~((marijuana, and marijuana-infused))~~ cannabis, and cannabis-infused products.

(e) "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)(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 ~~((state liquor and cannabis))~~ 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 ~~((marijuana))~~ cannabis tax change;

(iii) The increase or decrease in the volume of legal ~~((marijuana))~~ cannabis sold prior to and after any ~~((marijuana))~~ cannabis tax change;

(iv) Increases or decreases in the number of licensed ~~((marijuana))~~ cannabis producers, processors, and retailers;

(v) The number of illegal and noncompliant ~~((marijuana))~~ cannabis outlets the board requires to be closed;

(vi) Gross ~~((marijuana))~~ 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) 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.

**Sec. 102.** RCW 69.50.540 and 2021 c 334 s 986 are each amended to read as follows:

The legislature must annually appropriate moneys in the dedicated ~~((marijuana))~~ cannabis account created in RCW 69.50.530 as follows:

(1) For the purposes listed in this subsection (1), the legislature must appropriate to the respective agencies amounts sufficient to make the following expenditures on a quarterly basis or as provided in this subsection:

(a) One hundred twenty-five thousand dollars to the health care authority to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and board. The survey must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(b) Fifty thousand dollars to the health care authority for the purpose of contracting with the Washington state institute for public policy to conduct the cost-benefit evaluation and produce the reports described in RCW 69.50.550. This appropriation ends after production of the final report required by RCW 69.50.550;

(c) Five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by (~~marijuana~~) cannabis use;

(d)(i) An amount not less than one million two hundred fifty thousand dollars to the board for administration of this chapter as appropriated in the omnibus appropriations act;

(ii) One million three hundred twenty-three thousand dollars for fiscal year 2020 to the health professions account established under RCW 43.70.320 for the development and administration of the (~~marijuana~~) cannabis authorization database by the department of health;

(iii) Two million four hundred fifty-three thousand dollars for fiscal year 2020 and two million four hundred twenty-three thousand dollars for fiscal years 2021, 2022, and 2023 to the Washington state patrol for a drug enforcement task force. It is the intent of the legislature that this policy will be continued in the 2021-2023 fiscal biennium; and

(iv) Ninety-eight thousand dollars for fiscal year 2019 to the department of ecology for research on accreditation of (~~marijuana~~) cannabis product testing laboratories;

(e) Four hundred sixty-five thousand dollars for fiscal year 2020, four hundred sixty-four thousand dollars for fiscal year 2021, two hundred seventy thousand dollars in fiscal year 2022, and two hundred seventy-six thousand dollars in fiscal year 2023 to the department of ecology for implementation of accreditation of (~~marijuana~~) cannabis product testing laboratories;

(f) One hundred eighty-nine thousand dollars for fiscal year 2020 to the department of health for rule making regarding compassionate care renewals;



(g) Eight hundred eight thousand dollars for each of fiscal years 2020 through 2023 to the department of health for the administration of the ((~~marijuana~~)) cannabis authorization database;

(h) Six hundred thirty-five thousand dollars for fiscal year 2020, six hundred thirty-five thousand dollars for fiscal year 2021, six hundred twenty-one thousand dollars for fiscal year 2022, and six hundred twenty-seven thousand dollars for fiscal year 2023 to the department of agriculture for compliance-based laboratory analysis of pesticides in ((~~marijuana~~)) cannabis;

(i) One million six hundred fifty thousand dollars for fiscal year 2022 and one million six hundred fifty thousand dollars for fiscal year 2023 to the department of commerce to fund the ((~~marijuana~~)) cannabis social equity technical assistance ((~~competitive~~)) grant program under RCW 43.330.540; and

(j) One hundred sixty-three thousand dollars for fiscal year 2022 and one hundred fifty-nine thousand dollars for fiscal year 2023 to the department of commerce to establish a roster of mentors as part of the cannabis social equity technical assistance grant program under ((~~Engrossed Substitute House Bill No. 1443 (cannabis industry/equity) [chapter 169, Laws of 2021]~~)) RCW 43.330.540; and

(2) From the amounts in the dedicated ((~~marijuana~~)) cannabis account after appropriation of the amounts identified in subsection (1) of this section, the legislature must appropriate for the purposes listed in this subsection (2) as follows:

(a)(i) Up to fifteen percent to the health care authority for the development, implementation, maintenance, and evaluation of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school-age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation, mental health services for children and youth, and services for pregnant and parenting women; PROVIDED, That:

(A) Of the funds appropriated under (a)(i) of this subsection for new programs and new services, at least eighty-five percent must be directed to evidence-based or research-based programs and practices that produce objectively measurable results and, by September 1, 2020, are cost-beneficial; and

(B) Up to fifteen percent of the funds appropriated under (a)(i) of this subsection for new programs and new services may be directed to proven and tested practices, emerging best practices, or promising practices.

(ii) In deciding which programs and practices to fund, the director of the health care authority must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute.

(iii) For each fiscal year, the legislature must appropriate a minimum of twenty-five million five hundred thirty-six thousand dollars under this subsection (2)(a);

(b)(i) Up to ten percent to the department of health for the following, subject to (b)(ii) of this subsection (2):

(A) Creation, implementation, operation, and management of a ((marijuana)) cannabis education and public health program that contains the following:

(I) A ((marijuana)) cannabis use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or research-based public health approaches to minimizing the harms associated with ((marijuana)) cannabis use, and does not solely advocate an abstinence-only approach;

(II) A grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of ((marijuana)) cannabis use by youth; and

(III) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by ((marijuana)) cannabis use; and

(B) The Washington poison control center.

(ii) For each fiscal year, the legislature must appropriate a minimum of nine million seven hundred fifty thousand dollars under this subsection (2)(b);

(c)(i) Up to six-tenths of one percent to the University of Washington and four-tenths of one percent to Washington State University for research on the short and long-term effects of ((marijuana)) cannabis use, to include but not be limited to formal and informal methods for estimating and measuring intoxication and impairment, and for the dissemination of such research.

(ii) For each fiscal year, except for the 2019-2021 and 2021-2023 fiscal biennia, the legislature must appropriate a minimum of one million twenty-one thousand dollars to the University of Washington. For each fiscal year, except for the 2019-2021 and 2021-2023 fiscal biennia, the legislature must appropriate a minimum of six hundred eighty-one thousand dollars to Washington State University under this subsection (2)(c). It is the intent of the legislature that this policy will be continued in the 2023-2025 fiscal biennium;

(d) Fifty percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;

(e) Five percent to the Washington state health care authority to be expended exclusively through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

(f)(i) Up to three-tenths of one percent to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW.

(ii) For each fiscal year, the legislature must appropriate a minimum of five hundred eleven thousand dollars to the office of the superintendent of public instruction under this subsection (2)(f); and

(g) At the end of each fiscal year, the treasurer must transfer any amounts in the dedicated ((marijuana)) cannabis account that are not appropriated pursuant to subsection (1) of this section and this subsection (2) into the general fund, except as provided in (g)(i) of this subsection (2).

(i) Beginning in fiscal year 2018, if ~~((marijuana))~~ cannabis excise tax collections deposited into the general fund in the prior fiscal year exceed twenty-five million dollars, then each fiscal year the legislature must appropriate an amount equal to thirty percent of all ~~((marijuana))~~ cannabis excise taxes deposited into the general fund the prior fiscal year to the treasurer for distribution to counties, cities, and towns as follows:

(A) Thirty percent must be distributed to counties, cities, and towns where licensed ~~((marijuana))~~ cannabis retailers are physically located. Each jurisdiction must receive a share of the revenue distribution under this subsection (2)(g)(i)(A) based on the proportional share of the total revenues generated in the individual jurisdiction from the taxes collected under RCW 69.50.535, from licensed ~~((marijuana))~~ cannabis retailers physically located in each jurisdiction. For purposes of this subsection (2)(g)(i)(A), one hundred percent of the proportional amount attributed to a retailer physically located in a city or town must be distributed to the city or town.

(B) Seventy percent must be distributed to counties, cities, and towns ratably on a per capita basis. Counties must receive sixty percent of the distribution, which must be disbursed based on each county's total proportional population. Funds may only be distributed to jurisdictions that do not prohibit the siting of any state licensed ~~((marijuana))~~ cannabis producer, processor, or retailer.

(ii) Distribution amounts allocated to each county, city, and town must be distributed in four installments by the last day of each fiscal quarter.

(iii) By September 15th of each year, the board must provide the state treasurer the annual distribution amount, if any, for each county and city as determined in (g)(i) of this subsection (2).

(iv) The total share of ~~((marijuana))~~ cannabis excise tax revenues distributed to counties and cities in (g)(i) of this subsection (2) may not exceed fifteen million dollars in fiscal years 2018, 2019, 2020, and 2021, and twenty million dollars per fiscal year thereafter.

**Sec. 103.** RCW 69.50.550 and 2013 c 3 s 30 are each amended to read as follows:

(1) The Washington state institute for public policy shall conduct cost-benefit evaluations of the implementation of chapter 3, Laws of 2013. A preliminary report, and recommendations to appropriate committees of the legislature, shall be made by September 1, 2015, and the first final report with recommendations by September 1, 2017. Subsequent reports shall be due September 1, 2022, and September 1, 2032.

(2) The evaluation of the implementation of chapter 3, Laws of 2013 shall include, but not necessarily be limited to, consideration of the following factors:

(a) Public health, to include but not be limited to:

(i) Health costs associated with ~~((marijuana))~~ cannabis use;

(ii) Health costs associated with criminal prohibition of ~~((marijuana))~~ cannabis, including lack of product safety or quality control regulations and the relegation of ~~((marijuana))~~ cannabis to the same illegal market as potentially more dangerous substances; and

(iii) The impact of increased investment in the research, evaluation, education, prevention and intervention programs, practices, and campaigns identified in RCW 69.50.363 on rates of ~~((marijuana-related))~~ cannabis-related

maladaptive substance use and diagnosis of (~~(marijuana-related)~~) cannabis-related substance use disorder, substance abuse, or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders;

(b) Public safety, to include but not be limited to:

(i) Public safety issues relating to (~~(marijuana)~~) cannabis use; and

(ii) Public safety issues relating to criminal prohibition of (~~(marijuana)~~) cannabis;

(c) Youth and adult rates of the following:

(i) (~~(Marijuana)~~) Cannabis use;

(ii) Maladaptive use of (~~(marijuana)~~) cannabis; and

(iii) Diagnosis of (~~(marijuana-related)~~) cannabis-related substance use disorder, substance abuse, or substance dependence, including primary, secondary, and tertiary choices of substance;

(d) Economic impacts in the private and public sectors, including but not limited to:

(i) Jobs creation;

(ii) Workplace safety;

(iii) Revenues; and

(iv) Taxes generated for state and local budgets;

(e) Criminal justice impacts, to include but not be limited to:

(i) Use of public resources like law enforcement officers and equipment, prosecuting attorneys and public defenders, judges and court staff, the Washington state patrol crime lab and identification and criminal history section, jails and prisons, and misdemeanor and felon supervision officers to enforce state criminal laws regarding (~~(marijuana)~~) cannabis; and

(ii) Short and long-term consequences of involvement in the criminal justice system for persons accused of crimes relating to (~~(marijuana)~~) cannabis, their families, and their communities; and

(f) State and local agency administrative costs and revenues.

**Sec. 104.** RCW 69.50.555 and 2015 c 207 s 3 are each amended to read as follows:

The taxes, fees, assessments, and other charges imposed by this chapter do not apply to commercial activities related to the production, processing, sale, and possession of (~~(marijuana)~~) cannabis, useable (~~(marijuana, marijuana)~~) cannabis, cannabis concentrates, and (~~(marijuana-infused)~~) cannabis-infused products covered by an agreement entered into under RCW 43.06.490.

**Sec. 105.** RCW 69.50.560 and 2015 c 70 s 33 are each amended to read as follows:

(1) The (~~(state liquor and cannabis)~~) board may conduct controlled purchase programs to determine whether:

(a) A (~~(marijuana)~~) cannabis retailer is unlawfully selling (~~(marijuana)~~) cannabis to persons under the age of twenty-one;

(b) A (~~(marijuana)~~) cannabis retailer holding a medical (~~(marijuana)~~) cannabis endorsement is selling to persons under the age of eighteen or selling to persons between the ages of eighteen and twenty-one who do not hold valid recognition cards; or

(c) ~~((Until July 1, 2016, collective gardens under RCW 69.51A.085 are providing marijuana to persons under the age of twenty-one; or~~

~~(d))~~) A cooperative organized under RCW 69.51A.250 is permitting a person under the age of twenty-one to participate.

(2) Every person under the age of twenty-one years who purchases or attempts to purchase ~~((marijuana))~~ cannabis is guilty of a violation of this section. This section does not apply to:

(a) Persons between the ages of eighteen and twenty-one who hold valid recognition cards and purchase ~~((marijuana))~~ cannabis at a ~~((marijuana))~~ cannabis retail outlet holding a medical ~~((marijuana))~~ cannabis endorsement;

(b) Persons between the ages of eighteen and twenty-one years who are participating in a controlled purchase program authorized by the ~~((state liquor and cannabis))~~ board under rules adopted by the board. Violations occurring under a private, controlled purchase program authorized by the ~~((state liquor and cannabis))~~ board may not be used for criminal or administrative prosecution.

(3) A ~~((marijuana))~~ cannabis retailer who conducts an in-house controlled purchase program authorized under this section shall provide his or her employees a written description of the employer's in-house controlled purchase program. The written description must include notice of actions an employer may take as a consequence of an employee's failure to comply with company policies regarding the sale of ~~((marijuana))~~ cannabis during an in-house controlled purchase program.

(4) An in-house controlled purchase program authorized under this section shall be for the purposes of employee training and employer self-compliance checks. A ~~((marijuana))~~ cannabis retailer may not terminate an employee solely for a first-time failure to comply with company policies regarding the sale of ~~((marijuana))~~ cannabis during an in-house controlled purchase program authorized under this section.

(5) Every person between the ages of eighteen and twenty-one who is convicted of a violation of this section is guilty of a misdemeanor punishable as provided by RCW 9A.20.021.

**Sec. 106.** RCW 69.50.562 and 2019 c 394 s 6 are each amended to read as follows:

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

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

(b) Waiving any fines, civil penalties, or administrative sanctions for violations, that have no direct or immediate relationship to public safety, and are corrected by the licensee within a reasonable amount of time as designated by the board; and

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

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

(a) May establish escalating penalties for violation of this chapter, provided that the cumulative effect of any such escalating penalties cannot last beyond

two years and the escalation applies only to multiple violations that are the same or similar in nature;

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

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

(ii) Furnishing of (~~(marijuana)~~) cannabis product to minors;

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

(iv) The commission of (~~(nonmarijuana-related)~~) noncannabis-related crimes; or

(v) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or an action that is, or alleged to be, any of the violations identified in (b)(i) through (~~(b)~~)(iv) of this subsection (2);

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

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

(e) Must give substantial consideration to mitigating any penalty imposed on a licensee when there is employee misconduct that led to the violation and the licensee:

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

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

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

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

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

(b) Furnishing of (~~(marijuana)~~) cannabis product to minors;

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

(d) The commission of (~~(nonmarijuana-related)~~) noncannabis-related crimes; or

(e) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or an action that is, or is alleged to be, any of the violations identified in (a) through (d) of this subsection (3).

**Sec. 107.** RCW 69.50.563 and 2019 c 394 s 3 are each amended to read as follows:

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

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

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

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

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

(ii) Furnishing of (~~(marijuana)~~) cannabis product to minors;

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

(iv) The commission of (~~(nonmarijuana-related)~~) noncannabis-related crimes; or

(v) Knowingly making a misrepresentation of fact to the board, an officer of the board, or an employee of the board related to conduct or an action that is, or is alleged to be, any of the violations identified in (c)(i) through (~~(e)~~)(iv) of this subsection (1).

(2) The (~~(liquor and cannabis)~~) board may adopt rules to implement this section and RCW 43.05.160.

**Sec. 108.** RCW 69.50.564 and 2019 c 394 s 8 are each amended to read as follows:

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

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

(3) For the purposes of this section:

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

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

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

(b) "Settlement conference" means a meeting or discussion between a licensed (~~(marijuana)~~) cannabis producer, processor, retailer, researcher,

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

**Sec. 109.** RCW 69.50.570 and 2015 2nd sp.s. c 4 s 210 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, a retail sale of a bundled transaction that includes (~~(marijuana))~~ cannabis product is subject to the tax imposed under RCW 69.50.535 on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under RCW 69.50.535, the portion of the price attributable to the nontaxable products are subject to the tax imposed by RCW 69.50.535 unless the seller can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes.

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

(a) "Bundled transaction" means:

(i) The retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one product is a (~~(marijuana))~~ cannabis product subject to the tax under RCW 69.50.535; and

(ii) A (~~(marijuana))~~ cannabis product provided free of charge with the required purchase of another product. A (~~(marijuana))~~ cannabis product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the (~~(marijuana))~~ cannabis product provided free of charge.

(b) "Distinct and identifiable products" does not include packaging such as containers, boxes, sacks, bags, and bottles, or materials such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof. Examples of packaging that are incidental or immaterial include grocery sacks, shoeboxes, and dry cleaning garment bags.

(c) (~~("Marijuana))~~ "Cannabis product" means "useable (~~(marijuana, "~~cannabis," cannabis concentrates," and (~~("marijuana-infused))~~ cannabis-infused products" as defined in RCW 69.50.101.

(d) "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.

(e) "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.

**Sec. 110.** RCW 69.50.575 and 2015 2nd sp.s. c 4 s 701 are each amended to read as follows:

(1) Cannabis health and beauty aids are not subject to the regulations and penalties of this chapter that apply to (~~((marijuana, marijuana))~~) cannabis, cannabis concentrates, or (~~((marijuana-infused))~~) cannabis-infused products.

(2) For purposes of this section, "cannabis health and beauty aid" means a product containing parts of the cannabis plant and which:

- (a) Is intended for use only as a topical application to provide therapeutic benefit or to enhance appearance;
- (b) Contains a THC concentration of not more than 0.3 percent;
- (c) Does not cross the blood-brain barrier; and
- (d) Is not intended for ingestion by humans or animals.

**Sec. 111.** RCW 69.50.580 and 2015 2nd sp.s. c 4 s 801 are each amended to read as follows:

(1) Applicants for a (~~((marijuana))~~) cannabis producer's, (~~((marijuana))~~) cannabis processor's, (~~((marijuana))~~) cannabis researcher's or (~~((marijuana))~~) cannabis retailer's license under this chapter must display a sign provided by the (~~((state liquor and cannabis))~~) board on the outside of the premises to be licensed notifying the public that the premises are subject to an application for such license. The sign must:

- (a) Contain text with content sufficient to notify the public of the nature of the pending license application, the date of the application, the name of the applicant, and contact information for the (~~((state liquor and cannabis))~~) board;
- (b) Be conspicuously displayed on, or immediately adjacent to, the premises subject to the application and in the location that is most likely to be seen by the public;
- (c) Be of a size sufficient to ensure that it will be readily seen by the public; and
- (d) Be posted within seven business days of the submission of the application to the (~~((state liquor and cannabis))~~) board.

(2) The (~~((state liquor and cannabis))~~) board must adopt such rules as are necessary for the implementation of this section, including rules pertaining to the size of the sign and the text thereon, the textual content of the sign, the fee for providing the sign, and any other requirements necessary to ensure that the sign provides adequate notice to the public.

(3)(a) A city, town, or county may adopt an ordinance requiring individual notice by an applicant for a (~~((marijuana))~~) cannabis producer's, (~~((marijuana))~~) cannabis processor's, (~~((marijuana))~~) cannabis researcher's, or (~~((marijuana))~~) cannabis retailer's license under this chapter, sixty days prior to issuance of the license, to any elementary or secondary school, playground, recreation center or facility, child care center, church, public park, public transit center, library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older, that is within one thousand feet of the perimeter of the grounds of the establishment seeking licensure. The notice must provide the contact information for the (~~((liquor and cannabis))~~) board where any of the owners or

operators of these entities may submit comments or concerns about the proposed business location.

(b) For the purposes of this subsection, "church" means a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith.

**Sec. 112.** RCW 69.51.020 and 1979 c 136 s 2 are each amended to read as follows:

The legislature finds that recent research has shown that the use of (~~(marijuana)~~) cannabis may alleviate the nausea and ill effects of cancer chemotherapy and radiology, and, additionally, may alleviate the ill effects of glaucoma. The legislature further finds that there is a need for further research and experimentation regarding the use of (~~(marijuana)~~) cannabis under strictly controlled circumstances. It is for this purpose that the controlled substances therapeutic research act is hereby enacted.

**Sec. 113.** RCW 69.51.030 and 2013 c 19 s 113 are each amended to read as follows:

As used in this chapter:

- (1) "Commission" means the pharmacy quality assurance commission;
- (2) "Department" means the department of health;
- (3) (~~("Marijuana")~~) "Cannabis" means all parts of the plant of the genus Cannabis L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin; and
- (4) "Practitioner" means a physician licensed pursuant to chapter 18.71 or 18.57 RCW.

**Sec. 114.** RCW 69.51.060 and 2013 c 19 s 116 are each amended to read as follows:

(1) The commission shall obtain (~~(marijuana)~~) cannabis through whatever means it deems most appropriate and consistent with regulations promulgated by the United States food and drug administration, the drug enforcement agency, and the national institute on drug abuse, and pursuant to the provisions of this chapter.

(2) The commission may use (~~(marijuana)~~) cannabis which has been confiscated by local or state law enforcement agencies and has been determined to be free from contamination.

(3) The commission shall distribute the analyzed (~~(marijuana)~~) cannabis to approved practitioners and/or institutions in accordance with rules promulgated by the commission.

**Sec. 115.** RCW 69.51A.005 and 2015 c 70 s 16 are each amended to read as follows:

(1) The legislature finds that:

(a) There is medical evidence that some patients with terminal or debilitating medical conditions may, under their health care professional's care, benefit from the medical use of (~~(marijuana)~~) cannabis. Some of the conditions for which (~~(marijuana)~~) cannabis appears to be beneficial include, but are not limited to:

(i) Nausea, vomiting, and cachexia associated with cancer, HIV-positive status, AIDS, hepatitis C, anorexia, and their treatments;

(ii) Severe muscle spasms associated with multiple sclerosis, epilepsy, and other seizure and spasticity disorders;

(iii) Acute or chronic glaucoma;

(iv) Crohn's disease; and

(v) Some forms of intractable pain.

(b) Humanitarian compassion necessitates that the decision to use ~~((marijuana))~~ cannabis by patients with terminal or debilitating medical conditions is a personal, individual decision, based upon their health care professional's professional medical judgment and discretion.

(2) Therefore, the legislature intends that, so long as such activities are in strict compliance with this chapter:

(a) Qualifying patients with terminal or debilitating medical conditions who, in the judgment of their health care professionals, may benefit from the medical use of ~~((marijuana))~~ cannabis, shall not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law based solely on their medical use of ~~((marijuana))~~ cannabis, notwithstanding any other provision of law;

(b) Persons who act as designated providers to such patients shall also not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law, notwithstanding any other provision of law, based solely on their assisting with the medical use of ~~((marijuana))~~ cannabis; and

(c) Health care professionals shall also not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law for the proper authorization of medical use of ~~((marijuana))~~ cannabis by qualifying patients for whom, in the health care professional's professional judgment, the medical use of ~~((marijuana))~~ cannabis may prove beneficial.

(3) Nothing in this chapter establishes the medical necessity or medical appropriateness of ~~((marijuana))~~ cannabis for treating terminal or debilitating medical conditions as defined in RCW 69.51A.010.

(4) Nothing in this chapter diminishes the authority of correctional agencies and departments, including local governments or jails, to establish a procedure for determining when the use of ~~((marijuana))~~ cannabis would impact community safety or the effective supervision of those on active supervision for a criminal conviction, nor does it create the right to any accommodation of any medical use of ~~((marijuana))~~ cannabis in any correctional facility or jail.

**Sec. 116.** RCW 69.51A.010 and 2020 c 80 s 44 are each amended to read as follows:

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

(1)(a) ~~((Until July 1, 2016, "authorization" means:~~

~~(i) A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of marijuana; and~~

~~(ii) Proof of identity such as a Washington state driver's license or identicaid, as defined in RCW 46.20.035.~~

~~(b) Beginning July 1, 2016, "authorization"))~~ "Authorization" means a form developed by the department that is completed and signed by a qualifying patient's health care professional and printed on tamper-resistant paper.

~~((e))~~ (b) An authorization is not a prescription as defined in RCW 69.50.101.

(2) "CBD concentration" means the percent of cannabidiol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of ~~((marijuana))~~ cannabis product.

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

(4) "Designated provider" means a person who is twenty-one years of age or older and:

(a)(i) Is the parent or guardian of a qualifying patient who is under the age of eighteen and ~~((beginning July 1, 2016,))~~ holds a recognition card; or

(ii) Has been designated in writing by a qualifying patient to serve as the designated provider for that patient;

(b)(i) Has an authorization from the qualifying patient's health care professional; or

(ii) ~~((Beginning July 1, 2016,))~~

(A) Has been entered into the medical ~~((marijuana))~~ cannabis authorization database as being the designated provider to a qualifying patient; and

(B) Has been provided a recognition card;

(c) Is prohibited from consuming ~~((marijuana))~~ cannabis obtained for the personal, medical use of the qualifying patient for whom the individual is acting as designated provider;

(d) Provides ~~((marijuana))~~ cannabis to only the qualifying patient that has designated him or her;

(e) Is in compliance with the terms and conditions of this chapter; and

(f) Is the designated provider to only one patient at any one time.

(5) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(6) "Housing unit" means a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building, and which have direct access from the outside of the building or through a common hall.

(7) "Low THC, high CBD" means products determined by the department to have a low THC, high CBD ratio under RCW 69.50.375. Low THC, high CBD products must be inhalable, ingestible, or absorbable.

(8) ~~(("Marijuana"))~~ "Cannabis" has the meaning provided in RCW 69.50.101.

(9) ~~(("Marijuana"))~~ "Cannabis concentrates" has the meaning provided in RCW 69.50.101.

(10) ~~(("Marijuana"))~~ "Cannabis processor" has the meaning provided in RCW 69.50.101.

(11) ~~(("Marijuana"))~~ "Cannabis producer" has the meaning provided in RCW 69.50.101.

(12) ~~(("Marijuana"))~~ "Cannabis retailer" has the meaning provided in RCW 69.50.101.

(13) ("~~Marijuana~~) Cannabis retailer with a medical (~~marijuana~~) cannabis endorsement" means a (~~marijuana~~) cannabis retailer that has been issued a medical (~~marijuana~~) cannabis endorsement by the state liquor and cannabis board pursuant to RCW 69.50.375.

(14) ("~~Marijuana-infused~~) Cannabis-infused products" has the meaning provided in RCW 69.50.101.

(15) "Medical (~~marijuana~~) cannabis authorization database" means the secure and confidential database established in RCW 69.51A.230.

(16) "Medical use of (~~marijuana~~) cannabis" means the manufacture, production, possession, transportation, delivery, ingestion, application, or administration of (~~marijuana~~) cannabis for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating medical condition.

(17) "Plant" means a (~~marijuana~~) cannabis plant having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system is considered part of the same single plant.

(18) "Public place" has the meaning provided in RCW 70.160.020.

(19) "Qualifying patient" means a person who:

(a)(i) Is a patient of a health care professional;

(ii) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;

(iii) Is a resident of the state of Washington at the time of such diagnosis;

(iv) Has been advised by that health care professional about the risks and benefits of the medical use of (~~marijuana~~) cannabis;

(v) Has been advised by that health care professional that they may benefit from the medical use of (~~marijuana~~) cannabis;

(vi)(A) Has an authorization from his or her health care professional; or

(B) (~~Beginning July 1, 2016, has~~) Has been entered into the medical (~~marijuana~~) cannabis authorization database and has been provided a recognition card; and

(vii) Is otherwise in compliance with the terms and conditions established in this chapter.

(b) "Qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

(20) "Recognition card" means a card issued to qualifying patients and designated providers by a (~~marijuana~~) cannabis retailer with a medical (~~marijuana~~) cannabis endorsement that has entered them into the medical (~~marijuana~~) cannabis authorization database.

(21) "Retail outlet" has the meaning provided in RCW 69.50.101.

(22) "Secretary" means the secretary of the department of health.

(23) "Tamper-resistant paper" means paper that meets one or more of the following industry-recognized features:

(a) One or more features designed to prevent copying of the paper;

(b) One or more features designed to prevent the erasure or modification of information on the paper; or

(c) One or more features designed to prevent the use of counterfeit authorization.

(24) "Terminal or debilitating medical condition" means a condition severe enough to significantly interfere with the patient's activities of daily living and ability to function, which can be objectively assessed and evaluated and limited to the following:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders;

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications;

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications;

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications;

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications;

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications;

(g) Posttraumatic stress disorder; or

(h) Traumatic brain injury.

(25) "THC concentration" has the meaning provided in RCW 69.50.101.

(26) "Useable (~~(marijuana))~~ cannabis" has the meaning provided in RCW 69.50.101.

**Sec. 117.** RCW 69.51A.030 and 2019 c 203 s 1 are each amended to read as follows:

(1) The following acts do not constitute crimes under state law or unprofessional conduct under chapter 18.130 RCW, and a health care professional may not be arrested, searched, prosecuted, disciplined, or subject to other criminal sanctions or civil consequences or liability under state law, or have real or personal property searched, seized, or forfeited pursuant to state law, notwithstanding any other provision of law as long as the health care professional complies with subsection (2) of this section:

(a) Advising a patient about the risks and benefits of medical use of (~~(marijuana))~~ cannabis or that the patient may benefit from the medical use of (~~(marijuana))~~ cannabis; or

(b) Providing a patient or designated provider meeting the criteria established under RCW 69.51A.010 with an authorization, based upon the health care professional's assessment of the patient's medical history and current medical condition, if the health care professional has complied with this chapter and he or she determines within a professional standard of care or in the individual health care professional's medical judgment the qualifying patient may benefit from the medical use of (~~(marijuana))~~ cannabis.

(2)(a) A health care professional may provide a qualifying patient or that patient's designated provider with an authorization for the medical use of (~~(marijuana))~~ cannabis in accordance with this section.

(b) In order to authorize for the medical use of ~~((marijuana))~~ cannabis under (a) of this subsection, the health care professional must:

(i) Have a documented relationship with the patient, as a principal care provider or a specialist, relating to the diagnosis and ongoing treatment or monitoring of the patient's terminal or debilitating medical condition;

(ii) Complete an in-person physical examination of the patient or a remote physical examination of the patient if one is determined to be appropriate under (c)(iii) of this subsection;

(iii) Document the terminal or debilitating medical condition of the patient in the patient's medical record and that the patient may benefit from treatment of this condition or its symptoms with medical use of ~~((marijuana))~~ cannabis;

(iv) Inform the patient of other options for treating the terminal or debilitating medical condition and documenting in the patient's medical record that the patient has received this information;

(v) Document in the patient's medical record other measures attempted to treat the terminal or debilitating medical condition that do not involve the medical use of ~~((marijuana))~~ cannabis; and

(vi) Complete an authorization on forms developed by the department, in accordance with subsection (3) of this section.

(c)(i) For a qualifying patient eighteen years of age or older, an authorization expires one year after its issuance. For a qualifying patient less than eighteen years of age, an authorization expires six months after its issuance.

(ii) An authorization may be renewed upon completion of an in-person physical examination or a remote physical examination of the patient if one is determined to be appropriate under (c)(iii) of this subsection and, in compliance with the other requirements of (b) of this subsection.

(iii) Following an in-person physical examination to authorize the use of ~~((marijuana))~~ cannabis for medical purposes, the health care professional may determine and note in the patient's medical record that subsequent physical examinations for the purposes of renewing an authorization may occur through the use of telemedicine technology if the health care professional determines that requiring the qualifying patient to attend a physical examination in person to renew an authorization would likely result in severe hardship to the qualifying patient because of the qualifying patient's physical or emotional condition.

(iv) When renewing a qualifying patient's authorization for the medical use of ~~((marijuana on or after July 28, 2019))~~ cannabis, the health care professional may indicate that the qualifying patient qualifies for a compassionate care renewal of his or her registration in the medical ~~((marijuana))~~ cannabis authorization database and recognition card if the health care professional determines that requiring the qualifying patient to renew a registration in person would likely result in severe hardship to the qualifying patient because of the qualifying patient's physical or emotional condition. A compassionate care renewal of a qualifying patient's registration and recognition card allows the qualifying patient to receive renewals without the need to be physically present at a retailer and without the requirement to have a photograph taken.

(d) A health care professional shall not:

(i) Accept, solicit, or offer any form of pecuniary remuneration from or to a ~~((marijuana))~~ cannabis retailer, ~~((marijuana))~~ cannabis processor, or ~~((marijuana))~~ cannabis producer;

(ii) Offer a discount or any other thing of value to a qualifying patient who is a customer of, or agrees to be a customer of, a particular ~~((marijuana))~~ cannabis retailer;

(iii) Examine or offer to examine a patient for purposes of diagnosing a terminal or debilitating medical condition at a location where ~~((marijuana))~~ cannabis is produced, processed, or sold;

(iv) Have a business or practice which consists primarily of authorizing the medical use of ~~((marijuana))~~ cannabis or authorize the medical use of ~~((marijuana))~~ cannabis at any location other than his or her practice's permanent physical location;

(v) Except as provided in RCW 69.51A.280, sell, or provide at no charge, ~~((marijuana))~~ cannabis concentrates, ~~((marijuana-infused))~~ cannabis-infused products, or useable ~~((marijuana))~~ cannabis to a qualifying patient or designated provider; or

(vi) Hold an economic interest in an enterprise that produces, processes, or sells ~~((marijuana))~~ cannabis if the health care professional authorizes the medical use of ~~((marijuana))~~ cannabis.

(3) The department shall develop the form for the health care professional to use as an authorization for qualifying patients and designated providers. The form shall include the qualifying patient's or designated provider's name, address, and date of birth; the health care professional's name, address, and license number; the amount of ~~((marijuana))~~ cannabis recommended for the qualifying patient; a telephone number where the authorization can be verified during normal business hours; the dates of issuance and expiration; and a statement that an authorization does not provide protection from arrest unless the qualifying patient or designated provider is also entered in the medical ~~((marijuana))~~ cannabis authorization database and holds a recognition card.

(4) The appropriate health professions disciplining authority may inspect or request patient records to confirm compliance with this section. The health care professional must provide access to or produce documents, records, or other items that are within his or her possession or control within twenty-one calendar days of service of a request by the health professions disciplining authority. If the twenty-one calendar day limit results in a hardship upon the health care professional, he or she may request, for good cause, an extension not to exceed thirty additional calendar days. Failure to produce the documents, records, or other items shall result in citations and fines issued consistent with RCW 18.130.230. Failure to otherwise comply with the requirements of this section shall be considered unprofessional conduct and subject to sanctions under chapter 18.130 RCW.

(5) After a health care professional authorizes a qualifying patient for the medical use of ~~((marijuana))~~ cannabis, he or she may discuss with the qualifying patient how to use ~~((marijuana))~~ cannabis and the types of products the qualifying patient should seek from a retail outlet.

**Sec. 118.** RCW 69.51A.040 and 2015 c 70 s 24 are each amended to read as follows:

The medical use of ~~((marijuana))~~ cannabis in accordance with the terms and conditions of this chapter does not constitute a crime and a qualifying patient or designated provider in compliance with the terms and conditions of this chapter may not be arrested, prosecuted, or subject to other criminal sanctions or civil



consequences for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, ~~((marijuana))~~ cannabis under state law, or have real or personal property seized or forfeited for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, ~~((marijuana))~~ cannabis under state law, and investigating law enforcement officers and agencies may not be held civilly liable for failure to seize ~~((marijuana))~~ cannabis in this circumstance, if:

(1)(a)(i) The qualifying patient or designated provider has been entered into the medical ~~((marijuana))~~ cannabis authorization database and holds a valid recognition card and possesses no more than the amount of ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana))~~ cannabis, plants, or ~~((marijuana-infused))~~ cannabis-infused products authorized under RCW 69.51A.210.

(ii) If a person is both a qualifying patient and a designated provider for another qualifying patient, the person may possess no more than twice the amounts described in RCW 69.51A.210 for the qualifying patient and designated provider, whether the plants, ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products are possessed individually or in combination between the qualifying patient and his or her designated provider;

(b) The qualifying patient or designated provider presents his or her recognition card to any law enforcement officer who questions the patient or provider regarding his or her medical use of ~~((marijuana))~~ cannabis;

(c) The qualifying patient or designated provider keeps a copy of his or her recognition card and the qualifying patient or designated provider's contact information posted prominently next to any plants, ~~((marijuana))~~ cannabis concentrates, ~~((marijuana-infused))~~ cannabis-infused products, or useable ~~((marijuana))~~ cannabis located at his or her residence;

(d) The investigating law enforcement officer does not possess evidence that:

(i) The designated provider has converted ~~((marijuana))~~ cannabis produced or obtained for the qualifying patient for his or her own personal use or benefit; or

(ii) The qualifying patient sold, donated, or supplied ~~((marijuana))~~ cannabis to another person; and

(e) The designated provider has not served as a designated provider to more than one qualifying patient within a fifteen-day period; or

(2) The qualifying patient or designated provider participates in a cooperative as provided in RCW 69.51A.250.

**Sec. 119.** RCW 69.51A.043 and 2015 c 70 s 25 are each amended to read as follows:

(1) A qualifying patient or designated provider who has a valid authorization from his or her health care professional, but is not entered in the medical ~~((marijuana))~~ cannabis authorization database and does not have a recognition card may raise the affirmative defense set forth in subsection (2) of this section, if:

(a) The qualifying patient or designated provider presents his or her authorization to any law enforcement officer who questions the patient or provider regarding his or her medical use of ~~((marijuana))~~ cannabis;

(b) The qualifying patient or designated provider possesses no more ~~((marijuana))~~ cannabis than the limits set forth in RCW 69.51A.210(3);

(c) The qualifying patient or designated provider is in compliance with all other terms and conditions of this chapter;

(d) The investigating law enforcement officer does not have probable cause to believe that the qualifying patient or designated provider has committed a felony, or is committing a misdemeanor in the officer's presence, that does not relate to the medical use of ~~((marijuana))~~ cannabis; and

(e) No outstanding warrant for arrest exists for the qualifying patient or designated provider.

(2) A qualifying patient or designated provider who is not entered in the medical ~~((marijuana))~~ cannabis authorization database and does not have a recognition card, but who presents his or her authorization to any law enforcement officer who questions the patient or provider regarding his or her medical use of ~~((marijuana))~~ cannabis, may assert an affirmative defense to charges of violations of state law relating to ~~((marijuana))~~ cannabis through proof at trial, by a preponderance of the evidence, that he or she otherwise meets the requirements of RCW 69.51A.040. A qualifying patient or designated provider meeting the conditions of this subsection but possessing more ~~((marijuana))~~ cannabis than the limits set forth in RCW 69.51A.210(3) may, in the investigating law enforcement officer's discretion, be taken into custody and booked into jail in connection with the investigation of the incident.

**Sec. 120.** RCW 69.51A.045 and 2015 c 70 s 29 are each amended to read as follows:

(1) A qualifying patient or designated provider in possession of plants, ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis infused products exceeding the limits set forth in this chapter but otherwise in compliance with all other terms and conditions of this chapter may establish an affirmative defense to charges of violations of state law relating to ~~((marijuana))~~ cannabis through proof at trial, by a preponderance of the evidence, that the qualifying patient's necessary medical use exceeds the amounts set forth in RCW 69.51A.040.

(2) An investigating law enforcement officer may seize plants, ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products exceeding the amounts set forth in this chapter. In the case of plants, the qualifying patient or designated provider shall be allowed to select the plants that will remain at the location. The officer and his or her law enforcement agency may not be held civilly liable for failure to seize ~~((marijuana))~~ cannabis in this circumstance.

**Sec. 121.** RCW 69.51A.050 and 1999 c 2 s 7 are each amended to read as follows:

(1) The lawful possession or manufacture of medical ~~((marijuana))~~ cannabis as authorized by this chapter shall not result in the forfeiture or seizure of any property.

(2) No person shall be prosecuted for constructive possession, conspiracy, or any other criminal offense solely for being in the presence or vicinity of medical ~~((marijuana))~~ cannabis or its use as authorized by this chapter.

(3) The state shall not be held liable for any deleterious outcomes from the medical use of ~~((marijuana))~~ cannabis by any qualifying patient.

**Sec. 122.** RCW 69.51A.060 and 2019 c 204 s 3 are each amended to read as follows:

(1) It shall be a class 3 civil infraction to use or display medical ~~((marijuana))~~ cannabis in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter establishes a right of care as a covered benefit or requires any state purchased health care as defined in RCW 41.05.011 or other health carrier or health plan as defined in Title 48 RCW to be liable for any claim for reimbursement for the medical use of ~~((marijuana))~~ cannabis. Such entities may enact coverage or noncoverage criteria or related policies for payment or nonpayment of medical ~~((marijuana))~~ cannabis in their sole discretion.

(3) Nothing in this chapter requires any health care professional to authorize the medical use of ~~((marijuana))~~ cannabis for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of ~~((marijuana))~~ cannabis in any place of employment, in any youth center, in any correctional facility, or smoking ~~((marijuana))~~ cannabis in any public place or hotel or motel.

(5) Nothing in this chapter authorizes the possession or use of ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products on federal property.

(6) Nothing in this chapter authorizes the use of medical ~~((marijuana))~~ cannabis by any person who is subject to the Washington code of military justice in chapter 38.38 RCW.

(7) Employers may establish drug-free work policies. Nothing in this chapter requires an accommodation for the medical use of ~~((marijuana))~~ cannabis if an employer has a drug-free workplace.

(8) No person shall be entitled to claim the protection from arrest and prosecution under RCW 69.51A.040 or the affirmative defense under RCW 69.51A.043 for engaging in the medical use of ~~((marijuana))~~ cannabis in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway, including violations of RCW 46.61.502 or 46.61.504, or equivalent local ordinances.

**Sec. 123.** RCW 69.51A.100 and 2015 c 70 s 34 are each amended to read as follows:

(1) A qualifying patient may revoke his or her designation of a specific designated provider and designate a different designated provider at any time. A revocation of designation must be in writing, signed and dated, and provided to the designated provider and, if applicable, the medical ~~((marijuana))~~ cannabis authorization database administrator. The protections of this chapter cease to apply to a person who has served as a designated provider to a qualifying patient seventy-two hours after receipt of that patient's revocation of his or her designation.

(2) A person may stop serving as a designated provider to a given qualifying patient at any time by revoking that designation in writing, signed and dated, and provided to the qualifying patient and, if applicable, the medical ~~((marijuana))~~ cannabis authorization database administrator. However, that person may not

begin serving as a designated provider to a different qualifying patient until fifteen days have elapsed from the date the last qualifying patient designated him or her to serve as a (~~((designated))~~) designated provider.

(3) The department may adopt rules to implement this section, including a procedure to remove the name of the designated provider from the medical (~~((marijuana))~~) cannabis authorization database upon receipt of a revocation under this section.

**Sec. 124.** RCW 69.51A.210 and 2015 c 70 s 19 are each amended to read as follows:

As part of authorizing a qualifying patient or designated provider, the health care professional may include recommendations on the amount of (~~((marijuana))~~) cannabis that is likely needed by the qualifying patient for his or her medical needs and in accordance with this section.

(1) If the health care professional does not include recommendations on the qualifying patient's or designated provider's authorization, the (~~((marijuana))~~) cannabis retailer with a medical (~~((marijuana))~~) cannabis endorsement, when adding the qualifying patient or designated provider to the medical (~~((marijuana))~~) cannabis authorization database, shall enter into the database that the qualifying patient or designated provider may purchase or obtain at a retail outlet holding a medical (~~((marijuana))~~) cannabis endorsement a combination of the following: Forty-eight ounces of (~~((marijuana-infused))~~) cannabis-infused product in solid form; three ounces of useable (~~((marijuana))~~) cannabis; two hundred sixteen ounces of (~~((marijuana-infused))~~) cannabis-infused product in liquid form; or twenty-one grams of (~~((marijuana))~~) cannabis concentrates. The qualifying patient or designated provider may also grow, in his or her domicile, up to six plants for the personal medical use of the qualifying patient and possess up to eight ounces of useable (~~((marijuana))~~) cannabis produced from his or her plants. These amounts shall be specified on the recognition card that is issued to the qualifying patient or designated provider.

(2) If the health care professional determines that the medical needs of a qualifying patient exceed the amounts provided for in subsection (1) of this section, the health care professional must specify on the authorization that it is recommended that the patient be allowed to grow, in his or her domicile, up to fifteen plants for the personal medical use of the patient. A patient so authorized may possess up to sixteen ounces of useable (~~((marijuana))~~) cannabis in his or her domicile. The number of plants must be entered into the medical (~~((marijuana))~~) cannabis authorization database by the (~~((marijuana))~~) cannabis retailer with a medical (~~((marijuana))~~) cannabis endorsement and specified on the recognition card that is issued to the qualifying patient or designated provider.

(3) If a qualifying patient or designated provider with an authorization from a health care professional has not been entered into the medical (~~((marijuana))~~) cannabis authorization database, he or she may not receive a recognition card and may only purchase at a retail outlet, whether it holds a medical (~~((marijuana))~~) cannabis endorsement or not, the amounts established in RCW 69.50.360. In addition the qualifying patient or the designated provider may grow, in his or her domicile, up to four plants for the personal medical use of the qualifying patient and possess up to six ounces of useable (~~((marijuana))~~) cannabis in his or her domicile.

**Sec. 125.** RCW 69.51A.220 and 2015 c 70 s 20 are each amended to read as follows:

(1) Health care professionals may authorize the medical use of ~~((marijuana))~~ cannabis for qualifying patients who are under the age of eighteen if:

(a) The minor's parent or guardian participates in the minor's treatment and agrees to the medical use of ~~((marijuana))~~ cannabis by the minor; and

(b) The parent or guardian acts as the designated provider for the minor and has sole control over the minor's ~~((marijuana))~~ cannabis.

(2) The minor may not grow plants or purchase ~~((marijuana-infused))~~ cannabis-infused products, useable ~~((marijuana, or marijuana))~~ cannabis, or cannabis concentrates from a ~~((marijuana))~~ cannabis retailer with a medical ~~((marijuana))~~ cannabis endorsement.

(3) Both the minor and the minor's parent or guardian who is acting as the designated provider must be entered in the medical ~~((marijuana))~~ cannabis authorization database and hold a recognition card.

(4) A health care professional who authorizes the medical use of ~~((marijuana))~~ cannabis by a minor must do so as part of the course of treatment of the minor's terminal or debilitating medical condition. If authorizing a minor for the medical use of ~~((marijuana))~~ cannabis, the health care professional must:

(a) Consult with other health care providers involved in the minor's treatment, as medically indicated, before authorization or reauthorization of the medical use of ~~((marijuana))~~ cannabis; and

(b) Reexamine the minor at least once every six months or more frequently as medically indicated. The reexamination must:

(i) Determine that the minor continues to have a terminal or debilitating medical condition and that the condition benefits from the medical use of ~~((marijuana))~~ cannabis; and

(ii) Include a follow-up discussion with the minor's parent or guardian to ensure the parent or guardian continues to participate in the treatment of the minor.

**Sec. 126.** RCW 69.51A.225 and 2019 c 204 s 2 are each amended to read as follows:

A school district must permit a student who meets the requirements of RCW 69.51A.220 to consume ~~((marijuana-infused))~~ cannabis-infused products on school grounds, aboard a school bus, or while attending a school-sponsored event. The use must be in accordance with school policy relating to medical ~~((marijuana))~~ cannabis use on school grounds, aboard a school bus, or while attending a school-sponsored event, as adopted under RCW 28A.210.325.

**Sec. 127.** RCW 69.51A.230 and 2019 c 220 s 2 and 2019 c 203 s 2 are each reenacted and amended to read as follows:

(1) The department must contract with an entity to create, administer, and maintain a secure and confidential medical ~~((marijuana))~~ cannabis authorization database that ~~((beginning July 1, 2016,))~~ allows:

(a) A ~~((marijuana))~~ cannabis retailer with a medical ~~((marijuana))~~ cannabis endorsement to add a qualifying patient or designated provider and include the amount of ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana, marijuana-infused))~~ cannabis, cannabis-infused products, or plants for which the qualifying patient is authorized under RCW 69.51A.210;

(b) Persons authorized to prescribe or dispense controlled substances to access health care information on their patients for the purpose of providing medical or pharmaceutical care for their patients;

(c) A qualifying patient or designated provider to request and receive his or her own health care information or information on any person or entity that has queried their name or information;

(d) Appropriate local, state, tribal, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation of suspected (~~(marijuana-related))~~ cannabis-related activity that may be illegal under Washington state law to confirm the validity of the recognition card of a qualifying patient or designated provider;

(e) A (~~(marijuana))~~ cannabis retailer holding a medical (~~(marijuana))~~ cannabis endorsement to confirm the validity of the recognition card of a qualifying patient or designated provider;

(f) The department of revenue to verify tax exemptions under chapters 82.08 and 82.12 RCW;

(g) The department and the health care professional's disciplining authorities to monitor authorizations and ensure compliance with this chapter and chapter 18.130 RCW by their licensees; and

(h) Authorizations to expire six months or one year after entry into the medical (~~(marijuana))~~ cannabis authorization database, depending on whether the authorization is for a minor or an adult.

(2) A qualifying patient and his or her designated provider, if any, may be placed in the medical (~~(marijuana))~~ cannabis authorization database at a (~~(marijuana))~~ cannabis retailer with a medical (~~(marijuana))~~ cannabis endorsement. After a qualifying patient or designated provider is placed in the medical (~~(marijuana))~~ cannabis authorization database, he or she must be provided with a recognition card that contains identifiers required in subsection (3) of this section.

(3) The recognition card requirements must be developed by the department in rule and include:

(a) A randomly generated and unique identifying number;

(b) For designated providers, the unique identifying number of the qualifying patient whom the provider is assisting;

(c) A photograph of the qualifying patient's or designated provider's face taken by an employee of the (~~(marijuana))~~ cannabis retailer with a medical (~~(marijuana))~~ cannabis endorsement at the same time that the qualifying patient or designated provider is being placed in the medical (~~(marijuana))~~ cannabis authorization database in accordance with rules adopted by the department;

(d) The amount of (~~(marijuana))~~ cannabis concentrates, useable (~~(marijuana, marijuana-infused))~~ cannabis, cannabis-infused products, or plants for which the qualifying patient is authorized under RCW 69.51A.210;

(e) The effective date and expiration date of the recognition card;

(f) The name of the health care professional who authorized the qualifying patient or designated provider; and

(g) For the recognition card, additional security features as necessary to ensure its validity.

(4)(a) For qualifying patients who are eighteen years of age or older and their designated providers, recognition cards are valid for one year from the date

the health care professional issued the authorization. For qualifying patients who are under the age of eighteen and their designated providers, recognition cards are valid for six months from the date the health care professional issued the authorization. Qualifying patients may not be reentered into the medical ((marijuana)) cannabis authorization database until they have been reexamined by a health care professional and determined to meet the definition of qualifying patient. After reexamination, a ((marijuana)) cannabis retailer with a medical ((marijuana)) cannabis endorsement must reenter the qualifying patient or designated provider into the medical ((marijuana)) cannabis authorization database and a new recognition card will then be issued in accordance with department rules.

(b) (~~Beginning on July 28, 2019, a~~) A qualifying patient's registration in the medical ((marijuana)) cannabis authorization database and his or her recognition card may be renewed by a qualifying patient's designated provider without the physical presence of the qualifying patient at the retailer if the authorization from the health care professional indicates that the qualifying patient qualifies for a compassionate care renewal, as provided in RCW 69.51A.030. A qualifying patient receiving renewals under the compassionate care renewal provisions is exempt from the photograph requirements under subsection (3)(c) of this section.

(5) If a recognition card is lost or stolen, a ((marijuana)) cannabis retailer with a medical ((marijuana)) cannabis endorsement, in conjunction with the database administrator, may issue a new card that will be valid for six months to one year if the patient is reexamined by a health care professional and determined to meet the definition of qualifying patient and depending on whether the patient is under the age of eighteen or eighteen years of age or older as provided in subsection (4) of this section. If a reexamination is not performed, the expiration date of the replacement recognition card must be the same as the lost or stolen recognition card.

(6) The database administrator must remove qualifying patients and designated providers from the medical ((marijuana)) cannabis authorization database upon expiration of the recognition card. Qualifying patients and designated providers may request to remove themselves from the medical ((marijuana)) cannabis authorization database before expiration of a recognition card and health care professionals may request to remove qualifying patients and designated providers from the medical ((marijuana)) cannabis authorization database if the patient or provider no longer qualifies for the medical use of ((marijuana)) cannabis. The database administrator must retain database records for at least five calendar years to permit the state liquor and cannabis board and the department of revenue to verify eligibility for tax exemptions.

(7) During development of the medical ((marijuana)) cannabis authorization database, the database administrator must consult with the department, stakeholders, and persons with relevant expertise to include, but not be limited to, qualifying patients, designated providers, health care professionals, state and local law enforcement agencies, and the University of Washington computer science and engineering security and privacy research lab or a certified cybersecurity firm, vendor, or service.

(8) The medical ((marijuana)) cannabis authorization database must meet the following requirements:

(a) Any personally identifiable information included in the database must be nonreversible, pursuant to definitions and standards set forth by the national institute of standards and technology;

(b) Any personally identifiable information included in the database must not be susceptible to linkage by use of data external to the database;

(c) The database must incorporate current best differential privacy practices, allowing for maximum accuracy of database queries while minimizing the chances of identifying the personally identifiable information included therein; and

(d) The database must be upgradable and updated in a timely fashion to keep current with state of the art privacy and security standards and practices.

(9)(a) Personally identifiable information of qualifying patients and designated providers included in the medical ((~~marijuana~~)) cannabis authorization database is confidential and exempt from public disclosure, inspection, or copying under chapter 42.56 RCW.

(b) Information contained in the medical ((~~marijuana~~)) cannabis authorization database may be released in aggregate form, with all personally identifiable information redacted, for the purpose of statistical analysis and oversight of agency performance and actions.

(c) Information contained in the medical ((~~marijuana~~)) cannabis authorization database shall not be shared with the federal government or its agents unless the particular qualifying patient or designated provider is convicted in state court for violating this chapter or chapter 69.50 RCW.

(10) The department must charge a one dollar fee for each initial and renewal recognition card issued by a ((~~marijuana~~)) cannabis retailer with a medical ((~~marijuana~~)) cannabis endorsement. The ((~~marijuana~~)) cannabis retailer with a medical ((~~marijuana~~)) cannabis endorsement shall collect the fee from the qualifying patient or designated provider at the time that he or she is entered into the database and issued a recognition card. The department shall establish a schedule for ((~~marijuana~~)) cannabis retailers with a medical ((~~marijuana~~)) cannabis endorsement to remit the fees collected. Fees collected under this subsection shall be deposited into the dedicated ((~~marijuana~~)) cannabis account created under RCW 69.50.530.

(11) If the database administrator fails to comply with this section, the department may cancel any contracts with the database administrator and contract with another database administrator to continue administration of the database. A database administrator who fails to comply with this section is subject to a fine of up to five thousand dollars in addition to any penalties established in the contract. Fines collected under this section must be deposited into the health professions account created under RCW 43.70.320.

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

**Sec. 128.** RCW 69.51A.240 and 2015 c 70 s 23 are each amended to read as follows:

(1) It is unlawful for a person to knowingly or intentionally:

(a) Access the medical ((~~marijuana~~)) cannabis authorization database for any reason not authorized under RCW 69.51A.230;

(b) Disclose any information received from the medical ((~~marijuana~~)) cannabis authorization database in violation of RCW 69.51A.230 including, but



not limited to, qualifying patient or designated provider names, addresses, or amount of ~~((marijuana))~~ cannabis for which they are authorized;

(c) Produce a recognition card or to tamper with a recognition card for the purpose of having it accepted by a ~~((marijuana))~~ cannabis retailer holding a medical ~~((marijuana))~~ cannabis endorsement in order to purchase ~~((marijuana))~~ cannabis as a qualifying patient or designated provider or to grow ~~((marijuana))~~ cannabis plants in accordance with this chapter;

(d) If a person is a designated provider to a qualifying patient, sell, donate, or supply ~~((marijuana))~~ cannabis produced or obtained for the qualifying patient to another person, or use the ~~((marijuana))~~ cannabis produced or obtained for the qualifying patient for the designated provider's own personal use or benefit; or

(e) If the person is a qualifying patient, sell, donate, or otherwise supply ~~((marijuana))~~ cannabis produced or obtained by the qualifying patient to another person.

(2) A person who violates this section is guilty of a class C felony.

**Sec. 129.** RCW 69.51A.250 and 2017 c 317 s 8 are each amended to read as follows:

(1) Qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process ~~((marijuana))~~ cannabis only for the medical use of members of the cooperative. No more than four qualifying patients or designated providers may become members of a cooperative under this section and all members must hold valid recognition cards. All members of the cooperative must be at least twenty-one years old. The designated provider of a qualifying patient who is under twenty-one years old may be a member of a cooperative on the qualifying patient's behalf. All plants grown in the cooperative must be from an immature plant or clone purchased from a licensed ~~((marijuana))~~ cannabis producer as defined in RCW 69.50.101. Cooperatives may also purchase ~~((marijuana))~~ cannabis seeds from a licensed ~~((marijuana))~~ cannabis producer.

(2) Qualifying patients and designated providers who wish to form a cooperative must register the location with the state liquor and cannabis board and this is the only location where cooperative members may grow or process ~~((marijuana))~~ cannabis. This registration must include the names of all participating members and copies of each participant's recognition card. Only qualifying patients or designated providers registered with the state liquor and cannabis board in association with the location may participate in growing or receive useable ~~((marijuana or marijuana-infused))~~ cannabis or cannabis-infused products grown at that location.

(3) No cooperative may be located in any of the following areas:

(a) Within one mile of a ~~((marijuana))~~ cannabis retailer;

(b) Within the smaller of either:

(i) One thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade that admission to which is not restricted to persons aged twenty-one years or older; or

(ii) The area restricted by ordinance, if the cooperative is located in a city, county, or town that has passed an ordinance pursuant to RCW 69.50.331(8); or

(c) Where prohibited by a city, town, or county zoning provision.

(4) The state liquor and cannabis board must deny the registration of any cooperative if the location does not comply with the requirements set forth in subsection (3) of this section.

(5) If a qualifying patient or designated provider no longer participates in growing at the location, he or she must notify the state liquor and cannabis board within fifteen days of the date the qualifying patient or designated provider ceases participation. The state liquor and cannabis board must remove his or her name from connection to the cooperative. Additional qualifying patients or designated providers may not join the cooperative until sixty days have passed since the date on which the last qualifying patient or designated provider notifies the state liquor and cannabis board that he or she no longer participates in that cooperative.

(6) Qualifying patients or designated providers who participate in a cooperative under this section:

(a) May grow up to the total amount of plants for which each participating member is authorized on their recognition cards, up to a maximum of sixty plants. At the location, the qualifying patients or designated providers may possess the amount of useable (~~((marijuana))~~ cannabis) that can be produced with the number of plants permitted under this subsection, but no more than seventy-two ounces;

(b) May only participate in one cooperative;

(c) May only grow plants in the cooperative and if he or she grows plants in the cooperative may not grow plants elsewhere;

(d) Must provide assistance in growing plants. A monetary contribution or donation is not to be considered assistance under this section. Participants must provide nonmonetary resources and labor in order to participate; and

(e) May not sell, donate, or otherwise provide (~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, useable (~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused) products to a person who is not participating under this section.

(7) The location of the cooperative must be the domicile of one of the participants. Only one cooperative may be located per property tax parcel. A copy of each participant's recognition card must be kept at the location at all times.

(8) The state liquor and cannabis board may adopt rules to implement this section including:

(a) Any security requirements necessary to ensure the safety of the cooperative and to reduce the risk of diversion from the cooperative;

(b) A seed to sale traceability model that is similar to the seed to sale traceability model used by licensees that will allow the state liquor and cannabis board to track all (~~((marijuana))~~ cannabis) grown in a cooperative.

(9) The state liquor and cannabis board or law enforcement may inspect a cooperative registered under this section to ensure members are in compliance with this section. The state liquor and cannabis board must adopt rules on reasonable inspection hours and reasons for inspections.

**Sec. 130.** RCW 69.51A.260 and 2015 c 70 s 27 are each amended to read as follows:

(1) Notwithstanding any other provision of this chapter and even if multiple qualifying patients or designated providers reside in the same housing unit, no

more than fifteen plants may be grown or located in any one housing unit other than a cooperative established pursuant to RCW 69.51A.250.

(2) Neither the production nor processing of (~~((marijuana or marijuana-infused))~~) cannabis or cannabis-infused products pursuant to this section nor the storage or growing of plants may occur if any portion of such activity can be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit.

(3) Cities, towns, counties, and other municipalities may create and enforce civil penalties, including abatement procedures, for the growing or processing of (~~((marijuana))~~) cannabis and for keeping (~~((marijuana))~~) cannabis plants beyond or otherwise not in compliance with this section.

**Sec. 131.** RCW 69.51A.270 and 2015 c 70 s 28 are each amended to read as follows:

(1) Once the state liquor and cannabis board adopts rules under subsection (2) of this section, qualifying patients or designated providers may only extract or separate the resin from (~~((marijuana))~~) cannabis or produce or process any form of (~~((marijuana))~~) cannabis concentrates or (~~((marijuana-infused))~~) cannabis-infused products in accordance with those standards.

(2) The state liquor and cannabis board must adopt rules permitting qualifying patients and designated providers to extract or separate the resin from (~~((marijuana))~~) cannabis using noncombustible methods. The rules must provide the noncombustible methods permitted and any restrictions on this practice.

**Sec. 132.** RCW 69.51A.290 and 2015 c 70 s 37 are each amended to read as follows:

A medical (~~((marijuana))~~) cannabis consultant certificate is hereby established.

(1) In addition to any other authority provided by law, the secretary of the department may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Establish forms and procedures necessary to administer this chapter;

(c) Approve training or education programs that meet the requirements of this section and any rules adopted to implement it;

(d) Receive criminal history record information that includes nonconviction information data for any purpose associated with initial certification or renewal of certification. The secretary shall require each applicant for initial certification to obtain a state or federal criminal history record information background check through the state patrol or the state patrol and the identification division of the federal bureau of investigation prior to the issuance of any certificate. The secretary shall specify those situations where a state background check is inadequate and an applicant must obtain an electronic fingerprint-based national background check through the state patrol and federal bureau of investigation. Situations where a background check is inadequate may include instances where an applicant has recently lived out-of-state or where the applicant has a criminal record in Washington;

(e) Establish administrative procedures, administrative requirements, and fees in accordance with RCW 43.70.110 and 43.70.250; and

(f) Maintain the official department record of all applicants and certificate holders.

(2) A training or education program approved by the secretary must include the following topics:

(a) The medical conditions that constitute terminal or debilitating conditions, and the symptoms of those conditions;

(b) Short and long-term effects of cannabinoids;

(c) Products that may benefit qualifying patients based on the patient's terminal or debilitating medical condition;

(d) Risks and benefits of various routes of administration;

(e) Safe handling and storage of useable (~~((marijuana, marijuana-infused))~~) cannabis, cannabis-infused products, and (~~((marijuana))~~) cannabis concentrates, including strategies to reduce access by minors;

(f) Demonstrated knowledge of this chapter and the rules adopted to implement it; and

(g) Other subjects deemed necessary and appropriate by the secretary to ensure medical (~~((marijuana))~~) cannabis consultant certificate holders are able to provide evidence-based and medically accurate advice on the medical use of (~~((marijuana))~~) cannabis.

(3) Medical (~~((marijuana))~~) cannabis consultant certificates are subject to annual renewals and continuing education requirements established by the secretary.

(4) The secretary shall have the power to refuse, suspend, or revoke the certificate of any medical (~~((marijuana))~~) cannabis consultant upon proof that:

(a) The certificate was procured through fraud, misrepresentation, or deceit;

(b) The certificate holder has committed acts in violation of subsection (6) of this section; or

(c) The certificate holder has violated or has permitted any employee or volunteer to violate any of the laws of this state relating to drugs or controlled substances or has been convicted of a felony.

In any case of the refusal, suspension, or revocation of a certificate by the secretary under the provisions of this chapter, appeal may be taken in accordance with chapter 34.05 RCW, the administrative procedure act.

(5) A medical (~~((marijuana))~~) cannabis consultant may provide the following services when acting as an owner, employee, or volunteer of a retail outlet licensed under RCW 69.50.354 and holding a medical (~~((marijuana))~~) cannabis endorsement under RCW 69.50.375:

(a) Assisting a customer with the selection of products sold at the retail outlet that may benefit the qualifying patient's terminal or debilitating medical condition;

(b) Describing the risks and benefits of products sold at the retail outlet;

(c) Describing the risks and benefits of methods of administration of products sold at the retail outlet;

(d) Advising a customer about the safe handling and storage of useable (~~((marijuana, marijuana-infused))~~) cannabis, cannabis-infused products, and (~~((marijuana))~~) cannabis concentrates, including strategies to reduce access by minors; and

(e) Providing instruction and demonstrations to customers about proper use and application of useable (~~((marijuana, marijuana-infused))~~) cannabis, cannabis-infused products, and (~~((marijuana))~~) cannabis concentrates.

(6) Nothing in this section authorizes a medical (~~((marijuana))~~) cannabis consultant to:

(a) Offer or undertake to diagnose or cure any human disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, by use of (~~((marijuana))~~) cannabis or any other means or instrumentality; or

(b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of (~~((marijuana))~~) cannabis.

(7) Nothing in this section requires an owner, employee, or volunteer of a retail outlet licensed under RCW 69.50.354 and holding a medical (~~((marijuana))~~) cannabis endorsement under RCW 69.50.375 to obtain a medical (~~((marijuana))~~) cannabis consultant certification.

(8) Nothing in this section applies to the practice of a health care profession by individuals who are licensed, certified, or registered in a profession listed in RCW 18.130.040(2) and who are performing services within their authorized scope of practice.

**Sec. 133.** RCW 69.51A.300 and 2019 c 55 s 13 are each amended to read as follows:

The board of naturopathy, the board of osteopathic medicine and surgery, the Washington medical commission, and the nursing care quality assurance commission shall develop and approve continuing education programs related to the use of (~~((marijuana))~~) cannabis for medical purposes for the health care providers that they each regulate that are based upon practice guidelines that have been adopted by each entity.

**Sec. 134.** RCW 69.51A.310 and 2017 c 317 s 11 are each amended to read as follows:

Qualifying patients and designated providers, who hold a recognition card and have been entered into the medical (~~((marijuana))~~) cannabis authorization database, may purchase immature plants or clones from a licensed (~~((marijuana))~~) cannabis producer as defined in RCW 69.50.101. Qualifying patients and designated providers may also purchase (~~((marijuana))~~) cannabis seeds from a licensed (~~((marijuana))~~) cannabis producer.

**Sec. 135.** RCW 70.345.010 and 2021 c 65 s 69 are each amended to read as follows:

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

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

(2) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing vapor products in this state.

(3) "Child care facility" has the same meaning as provided in RCW 70A.320.020.

(4) "Closed system nicotine container" means a sealed, prefilled, and disposable container of nicotine in a solution or other form in which such container is inserted directly into an electronic cigarette, electronic nicotine delivery system, or other similar product, if the nicotine in the container is

inaccessible through customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion or other contact by children.

(5) "Delivery sale" means any sale of a vapor product to a purchaser in this state where either:

(a) The purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, or the internet or other online service; or

(b) The vapor product is delivered by use of the mails or of a delivery service. The foregoing sales of vapor products constitute a delivery sale regardless of whether the seller is located within or without this state. "Delivery sale" does not include a sale of any vapor product not for personal consumption to a retailer.

(6) "Delivery seller" means a person who makes delivery sales.

(7) "Distributor" has the same meaning as in RCW 82.25.005.

(8) "Liquid nicotine container" means a package from which nicotine in a solution or other form is accessible through normal and foreseeable use by a consumer and that is used to hold soluble nicotine in any concentration. "Liquid nicotine container" does not include closed system nicotine containers.

(9) "Manufacturer" means a person who manufactures and sells vapor products.

(10) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

(11) "Place of business" means any place where vapor products are sold or where vapor products are manufactured, stored, or kept for the purpose of sale.

(12) "Playground" means any public improved area designed, equipped, and set aside for play of six or more children which is not intended for use as an athletic playing field or athletic court, including but not limited to any play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

(13) "Retail outlet" means each place of business from which vapor products are sold to consumers.

(14) "Retailer" means any person engaged in the business of selling vapor products to ultimate consumers.

(15)(a) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person.

(b) The term "sale" includes a gift by a person engaged in the business of selling vapor products, for advertising, promoting, or as a means of evading the provisions of this chapter.

(16) "School" has the same meaning as provided in RCW 70A.320.020.

(17) "Self-service display" means a display that contains vapor products and is located in an area that is openly accessible to customers and from which customers can readily access such products without the assistance of a

salesperson. A display case that holds vapor products behind locked doors does not constitute a self-service display.

(18) "Vapor product" means any noncombustible product that may contain nicotine and that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor or aerosol from a solution or other substance.

(a) "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(b) "Vapor product" does not include any product that meets the definition of (~~marijuana~~) cannabis, useable (~~marijuana, marijuana~~) cannabis, cannabis concentrates, (~~marijuana-infused~~) cannabis-infused products, cigarette, or tobacco products.

(c) For purposes of this subsection (18), (~~"marijuana,"~~) "cannabis," "useable (~~marijuana, marijuana~~) "cannabis," "cannabis concentrates," and (~~"marijuana-infused~~) "cannabis-infused products" have the same meaning as provided in RCW 69.50.101.

**Sec. 136.** RCW 79A.60.040 and 2014 c 132 s 1 are each amended to read as follows:

(1) It is unlawful for any person to operate a vessel in a reckless manner.

(2) It is unlawful for a person to operate a vessel while under the influence of intoxicating liquor, (~~marijuana~~) cannabis, or any drug. A person is considered to be under the influence of intoxicating liquor, (~~marijuana~~) cannabis, or any drug if, within two hours of operating a vessel:

(a) The person has an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) The person is under the influence of or affected by intoxicating liquor, (~~marijuana~~) cannabis, or any drug; or

(d) The person is under the combined influence of or affected by intoxicating liquor, (~~marijuana~~) cannabis, and any drug.

(3) The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.

(4)(a) Any person who operates a vessel within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of the person's breath for the purpose of determining the alcohol concentration in the person's breath if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person was operating a vessel while under the influence of intoxicating liquor or a combination of intoxicating liquor and any other drug.

(b) When an arrest results from an accident in which there has been serious bodily injury to another person or death or the arresting officer has reasonable grounds to believe the person was operating a vessel while under the influence of THC or any other drug, a blood test may be administered with the consent of the arrested person and a valid waiver of the warrant requirement or without the

consent of the person so arrested pursuant to a search warrant or when exigent circumstances exist.

(c) Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood.

(d) An arresting officer may administer field sobriety tests when circumstances permit.

(5) The test or tests of breath must be administered pursuant to RCW 46.20.308. The officer shall warn the person that if the person refuses to take the test, the person will be issued a class 1 civil infraction under RCW 7.80.120.

(6) A violation of subsection (1) of this section is a misdemeanor. A violation of subsection (2) of this section is a gross misdemeanor. In addition to the statutory penalties imposed, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense.

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

**Sec. 137.** RCW 82.02.010 and 2014 c 140 s 30 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;

~~((2))~~ (3) "Director" means the director of the department of revenue of the state of Washington;

~~((3) "Marijuana," "marijuana-infused products," and "useable marijuana" have the same meanings as provided in RCW 69.50.101;))~~

(4) "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) Words in the singular number include the plural and the plural include the singular. Words in one gender include all other genders.

**Sec. 138.** RCW 82.04.100 and 2014 c 140 s 1 are each amended to read as follows:

"Extractor" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees other than plantation Christmas trees, or other natural products, or takes fish, shellfish, or other sea or inland water foods or products. "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others; persons meeting the definition of farmer under RCW 82.04.213; or persons producing ~~((marijuana))~~ cannabis.



**Sec. 139.** RCW 82.04.213 and 2015 3rd sp.s. c 6 s 1102 are each amended to read as follows:

(1) "Agricultural product" means any product of plant cultivation or animal husbandry including, but not limited to: A product of horticulture, grain cultivation, vermiculture, viticulture, or aquaculture as defined in RCW 15.85.020; plantation Christmas trees; short-rotation hardwoods as defined in RCW 84.33.035; turf; or any animal including but not limited to an animal that is a private sector cultured aquatic product as defined in RCW 15.85.020, or a bird, or insect, or the substances obtained from such an animal including honey bee products. "Agricultural product" does not include ~~((marijuana))~~ cannabis, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products, or animals defined as pet animals under RCW 16.70.020.

(2)(a) "Farmer" means any person engaged in the business of growing, raising, or producing, upon the person's own lands or upon the lands in which the person has a present right of possession, any agricultural product to be sold, and the growing, raising, or producing honey bee products for sale, or providing bee pollination services, by an eligible apiarist. "Farmer" does not include a person growing, raising, or producing such products for the person's own consumption; a person selling any animal or substance obtained therefrom in connection with the person's business of operating a stockyard or a slaughter or packing house; or a person in respect to the business of taking, cultivating, or raising timber.

(b) "Eligible apiarist" means a person who owns or keeps one or more bee colonies and who grows, raises, or produces honey bee products for sale at wholesale and is registered under RCW 15.60.021.

(c) "Honey bee products" means queen honey bees, packaged honey bees, honey, pollen, bees wax, propolis, or other substances obtained from honey bees. "Honey bee products" does not include manufactured substances or articles.

(3) The terms "agriculture," "farming," "horticulture," "horticultural," and "horticultural product" may not be construed to include or relate to ~~((marijuana))~~ cannabis, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products unless the applicable term is explicitly defined to include ~~((marijuana))~~ cannabis, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products.

(4) ~~(("Marijuana,"))~~ "Cannabis," "useable ~~((marijuana, and marijuana-infused))~~ cannabis," and "cannabis-infused products" have the same meaning as in RCW 69.50.101.

**Sec. 140.** RCW 82.04.260 and 2021 c 145 s 7 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2025, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who

transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c)(i) Except as provided otherwise in (c)(iii) of this subsection, from July 1, 2025, until January 1, 2036, dairy products; or selling dairy products that the person has manufactured to purchasers who either transport in the ordinary course of business the goods out of state or purchasers who use such dairy products as an ingredient or component in the manufacturing of a dairy product; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state or sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product.

(ii) For the purposes of this subsection (1)(c), "dairy products" means:

(A) Products, not including any (~~marijuana-infused~~) cannabis-infused product, that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products, such as whey and casein; and

(B) Products comprised of not less than seventy percent dairy products that qualify under (c)(ii)(A) of this subsection, measured by weight or volume.

(iii) The preferential tax rate provided to taxpayers under this subsection (1)(c) does not apply to sales of dairy products on or after July 1, 2023, where a dairy product is used by the purchaser as an ingredient or component in the manufacturing in Washington of a dairy product;

(d)(i) Beginning July 1, 2025, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(ii) For purposes of this subsection (1)(d), "fruits" and "vegetables" do not include (~~marijuana~~) cannabis, useable (~~marijuana, or marijuana-infused~~) cannabis, or cannabis-infused products; and

(e) Wood biomass fuel; as to such persons the amount of tax with respect to the business is equal to the value of wood biomass fuel manufactured, multiplied by the rate of 0.138 percent. For the purposes of this section, "wood biomass fuel" means a liquid or gaseous fuel that is produced from lignocellulosic feedstocks, including wood, forest, or field residue and dedicated energy crops,

and that does not include wood treated with chemical preservations such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5)(a) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year from such business was two hundred fifty thousand dollars or less; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(b) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year from such business was more than two hundred fifty thousand dollars; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent through June 30, 2019, and 0.9 percent beginning July 1, 2019.

(6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for

delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(8)(a) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 70A.380.010; as to such persons the amount of the tax with respect to such business is equal to the gross income of the business, excluding any fees imposed under chapter 70A.384 RCW, multiplied by the rate of 3.3 percent.

(b) If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007;

(ii) 0.2904 percent beginning July 1, 2007, through March 31, 2020; and

(iii) Beginning April 1, 2020, 0.484 percent, subject to any reduction required under (e) of this subsection (11). The tax rate in this subsection (11)(a)(iii) applies to all business activities described in this subsection (11)(a).

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection (11) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case

of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.2904 percent through March 31, 2020; and

(ii) Beginning April 1, 2020, the following rates, which are subject to any reduction required under (e) of this subsection (11):

(A) The rate under RCW 82.04.250(1) on the business of making retail sales of tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes; and

(B) 0.484 percent on all other business activities described in this subsection (11)(b).

(c) For the purposes of this subsection (11), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d)(i) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection (11) must file a complete annual tax performance report with the department under RCW 82.32.534. However, this requirement does not apply to persons reporting under the tax rate in (a)(iii) of this subsection (11), so long as that rate remains 0.484 percent, or under any of the tax rates in (b)(ii)(A) and (B) of this subsection (11), so long as those tax rates remain the rate imposed pursuant to RCW 82.04.250(1) and 0.484 percent, respectively.

(ii) Nothing in (d)(i) of this subsection (11) may be construed as affecting the obligation of a person reporting under a tax rate provided in this subsection (11) to file a complete annual tax performance report with the department under RCW 82.32.534: (A) Pursuant to another provision of this title as a result of claiming a tax credit or exemption; or (B) pursuant to (d)(i) of this subsection (11) as a result of claiming the tax rates in (a)(ii) or (b)(i) of this subsection (11) for periods ending before April 1, 2020.

(e)(i) After March 31, 2021, the tax rates under (a)(iii) and (b)(ii) of this subsection (11) must be reduced to 0.357 percent provided the conditions in RCW 82.04.2602 are met. The effective date of the rates authorized under this subsection (11)(e) must occur on the first day of the next calendar quarter that is at least sixty days after the department receives the last of the two written notices pursuant to RCW 82.04.2602 (3) and (4).

(ii) Both a significant commercial airplane manufacturer separately and the rest of the aerospace industry as a whole, receiving the rate of 0.357 percent under this subsection (11)(e) are subject to the aerospace apprenticeship utilization rates required under RCW 49.04.220 by April 1, 2026, or five years after the effective date of the 0.357 percent rate authorized under this subsection (11)(e), whichever is later, as determined by the department of labor and industries.

(iii) The provisions of RCW 82.32.805 and 82.32.808 do not apply to this subsection (11)(e).

(f)(i) Except as provided in (f)(ii) of this subsection (11), this subsection (11) does not apply on and after July 1, 2040.

(ii) With respect to the manufacturing of commercial airplanes or making sales, at retail or wholesale, of commercial airplanes, this subsection (11) does not apply on and after July 1st of the year in which the department makes a determination that any final assembly or wing assembly of any version or variant

of a commercial airplane that is the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850 has been sited outside the state of Washington. This subsection (11)(f)(ii) only applies to the manufacturing or sale of commercial airplanes that are the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850. This subsection (11)(f)(ii) continues to apply during the time that a person is subject to the tax rate in (a)(iii) of this subsection (11).

(g) For the purposes of this subsection, "a significant commercial airplane manufacturer" means a manufacturer of commercial airplanes with at least fifty thousand full-time employees in Washington as of January 1, 2021.

(12)(a) Until July 1, 2045, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(b) Until July 1, 2045, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; (ii) timber products into other timber products or wood products; or (iii) products defined in RCW 19.27.570(1); as to such persons the amount of the tax with respect to the business is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(c) Until July 1, 2045, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; (iii) wood products manufactured by that person from timber or timber products; or (iv) products defined in RCW 19.27.570(1) manufactured by that person; as to such persons the amount of the tax with respect to the business is equal to the gross proceeds of sales of the timber, timber products, wood products, or products defined in RCW 19.27.570(1) multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(d) Until July 1, 2045, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (12)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

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

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection (12)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection (12) must file a complete annual tax performance report with the department under RCW 82.32.534.

(g) Nothing in this subsection (12) may be construed to affect the taxation of any activity defined as a retail sale in RCW 82.04.050(2) (b) or (c), defined as a wholesale sale in RCW 82.04.060(2), or taxed under RCW 82.04.280(1)(g).

(13) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(14)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.35 percent until July 1, 2024, and 0.484 percent thereafter.

(b) A person reporting under the tax rate provided in this subsection (14) must file a complete annual tax performance report with the department under RCW 82.32.534.

**Sec. 141.** RCW 82.04.331 and 2014 c 140 s 8 are each amended to read as follows:

(1) This chapter does not apply to amounts received by a person engaging within this state in the business of: (a) Making wholesale sales to farmers of seed conditioned for use in planting and not packaged for retail sale; or (b) conditioning seed for planting owned by others.

(2) For the purposes of this section, "seed" means seed potatoes and all other "agricultural seed" as defined in RCW 15.49.011. "Seed" does not include "flower seeds" or "vegetable seeds" as defined in RCW 15.49.011, or any other seeds or propagative portions of plants used to grow (~~(marijuana)~~) cannabis, ornamental flowers, or any type of bush, moss, fern, shrub, or tree.

**Sec. 142.** RCW 82.04.4266 and 2020 c 139 s 5 are each amended to read as follows:

(1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) Selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) For purposes of this section, "fruits" and "vegetables" do not include (~~(marijuana)~~) cannabis, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused products.

(3) A person claiming the exemption provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section expires July 1, 2025.

**Sec. 143.** RCW 82.04.756 and 2015 c 70 s 40 are each amended to read as follows:

(1) This chapter does not apply to any cooperative in respect to growing (~~(marijuana)~~) cannabis, or manufacturing (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused products, as those terms are defined in RCW 69.50.101.

(2) The tax preference authorized in this section is not subject to the provisions of RCW 82.32.805 and 82.32.808.

**Sec. 144.** RCW 82.08.010 and 2021 c 225 s 3 are each amended to read as follows:

For the purposes of this chapter:

(1)(a)(i) "Selling price" includes "sales price." "Sales price" means the total amount of consideration, except separately stated trade-in property of like kind, including cash, credit, property, and services, for which tangible personal property, extended warranties, digital goods, digital codes, digital automated services, or other services or anything else defined as a "retail sale" under RCW 82.04.050 are sold, leased, or rented, valued in money, whether received in money or otherwise. Except as otherwise provided in this subsection (1), no deduction from the total amount of consideration is allowed for the following:



(A) The seller's cost of the property sold; (B) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller; (C) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges; (D) delivery charges; and (E) installation charges.

(ii) When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" must be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department may prescribe;

(b) "Selling price" or "sales price" does not include: Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale; interest, financing, and carrying charges from credit extended on the sale of tangible personal property, extended warranties, digital goods, digital codes, digital automated services, or other services or anything else defined as a retail sale in RCW 82.04.050, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; and any taxes legally imposed directly on the consumer, or collected from the consumer pursuant to RCW 35.87A.010(2)(b), that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(c) "Selling price" or "sales price" includes consideration received by the seller from a third party if:

(i) The seller actually receives consideration from a party other than the purchaser, and the consideration is directly related to a price reduction or discount on the sale;

(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(iv) One of the criteria in this subsection (1)(c)(iv) is met:

(A) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(B) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount, however a "preferred customer" card that is available to any patron does not constitute membership in such a group; or

(C) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser;

(2)(a)(i) "Seller" means every person, including the state and its departments and institutions, making sales at retail or retail sales to a buyer, purchaser, or consumer, whether as agent, broker, or principal, except as otherwise provided in this subsection (2).

(ii) "Seller" includes marketplace facilitators, whether making sales in their own right or facilitating sales on behalf of marketplace sellers.

(b)(i) "Seller" does not include:

(A) The state and its departments and institutions when making sales to the state and its departments and institutions; or

(B) A professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale at retail that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the seller and is responsible for collecting and remitting the tax imposed by this chapter.

(ii) For the purposes of this subsection (2)(b), the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540;

(3) "Buyer," "purchaser," and "consumer" include, without limiting the scope hereof, every individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, municipal corporation, quasi municipal corporation, and also the state, its departments and institutions and all political subdivisions thereof, irrespective of the nature of the activities engaged in or functions performed, and also the United States or any instrumentality thereof;

(4) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing;

(5) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address;

(6) The meaning attributed in chapter 82.04 RCW to the terms "tax year," "taxable year," "person," "company," "sale," "sale at wholesale," "wholesale," "business," "engaging in business," "cash discount," "successor," "consumer," "in this state," "within this state," (~~"marijuana,"~~) "cannabis," "useable (~~"marijuana,"~~ and ~~"marijuana-infused"~~) cannabis," and "cannabis-infused products" applies equally to the provisions of this chapter;

(7) For the purposes of the taxes imposed under this chapter and under chapter 82.12 RCW, "tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, and prewritten computer software;

(8) "Extended warranty" has the same meaning as in RCW 82.04.050(7);

(9) The definitions in RCW 82.04.192 apply to this chapter;

(10) For the purposes of the taxes imposed under this chapter and chapter 82.12 RCW, whenever the terms "property" or "personal property" are used, those terms must be construed to include digital goods and digital codes unless:

(a) It is clear from the context that the term "personal property" is intended only to refer to tangible personal property;

(b) It is clear from the context that the term "property" is intended only to refer to tangible personal property, real property, or both; or

(c) To construe the term "property" or "personal property" as including digital goods and digital codes would yield unlikely, absurd, or strained consequences; and

(11) "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

(12) The terms "agriculture," "farming," "horticulture," "horticultural," and "horticultural product" may not be construed to include or relate to ~~((marijuana)) cannabis, useable ((marijuana, or marijuana-infused)) cannabis, or cannabis-infused~~ products unless the applicable term is explicitly defined to include ~~((marijuana)) cannabis, useable ((marijuana, or marijuana-infused)) cannabis, or cannabis-infused~~ products.

(13)(a) "Affiliated person" means a person that, with respect to another person:

(i) Has an ownership interest of more than five percent, whether direct or indirect, in the other person; or

(ii) Is related to the other person because a third person, or group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than five percent, whether direct or indirect, in the related persons.

(b) For purposes of this subsection (13):

(i) "Ownership interest" means the possession of equity in the capital, the stock, or the profits of the other person; and

(ii) An indirect ownership interest in a person is an ownership interest in an entity that has an ownership interest in the person or in an entity that has an indirect ownership interest in the person.

(14) "Marketplace" means a physical or electronic place, including, but not limited to, a store, a booth, an internet website, a catalog or a dedicated sales software application, where tangible personal property, digital codes and digital products, or services are offered for sale.

(15)(a) "Marketplace facilitator" means a person that:

(i) Contracts with sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the seller's products through a marketplace owned or operated by the person;

(ii) Engages directly or indirectly, through one or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between the buyer and seller. For purposes of this subsection, mere advertising does not constitute transmitting or otherwise communicating the offer or acceptance between the buyer and seller; and

(iii) Engages directly or indirectly, through one or more affiliated persons, in any of the following activities with respect to the seller's products:

(A) Payment processing services;

(B) Fulfillment or storage services;

- (C) Listing products for sale;
- (D) Setting prices;
- (E) Branding sales as those of the marketplace facilitator;
- (F) Taking orders; or
- (G) Providing customer service or accepting or assisting with returns or exchanges.

(b)(i) "Marketplace facilitator" does not include:

(A) A person who provides internet advertising services, including listing products for sale, so long as the person does not also engage in the activity described in (a)(ii) of this subsection (15) in addition to any of the activities described in (a)(iii) of this subsection (15); or

(B) A person with respect to the provision of travel agency services or the operation of a marketplace or that portion of a marketplace that enables consumers to purchase transient lodging accommodations in a hotel or other commercial transient lodging facility.

(ii) The exclusion in this subsection (15)(b) does not apply to a marketplace or that portion of a marketplace that facilitates the retail sale of transient lodging accommodations in homes, apartments, cabins, or other residential dwelling units.

(iii) For purposes of this subsection (15)(b), the following definitions apply:

(A) "Hotel" has the same meaning as in RCW 19.48.010.

(B) "Travel agency services" means arranging or booking, for a commission, fee or other consideration, vacation or travel packages, rental car or other travel reservations or accommodations, tickets for domestic or foreign travel by air, rail, ship, bus, or other medium of transportation, or hotel or other lodging accommodations.

(16) "Marketplace seller" means a seller that makes retail sales through any marketplace operated by a marketplace facilitator, regardless of whether the seller is required to be registered with the department under RCW 82.32.030.

(17) "Remote seller" means any seller, including a marketplace facilitator, who does not have a physical presence in this state and makes retail sales to purchasers or facilitates retail sales on behalf of marketplace sellers.

**Sec. 145.** RCW 82.08.020 and 2014 c 140 s 12 are each amended to read as follows:

(1) There is levied and collected a tax equal to six and five-tenths percent of the selling price on each retail sale in this state of:

(a) Tangible personal property, unless the sale is specifically excluded from the RCW 82.04.050 definition of retail sale;

(b) Digital goods, digital codes, and digital automated services, if the sale is included within the RCW 82.04.050 definition of retail sale;

(c) Services, other than digital automated services, included within the RCW 82.04.050 definition of retail sale;

(d) Extended warranties to consumers; and

(e) Anything else, the sale of which is included within the RCW 82.04.050 definition of retail sale.

(2) There is levied and collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection

must be deposited in the multimodal transportation account created in RCW 47.66.070.

(3) Beginning July 1, 2003, there is levied and collected an additional tax of three-tenths of one percent of the selling price on each retail sale of a motor vehicle in this state, other than retail car rentals taxed under subsection (2) of this section. The revenue collected under this subsection must be deposited in the multimodal transportation account created in RCW 47.66.070.

(4) For purposes of subsection (3) of this section, "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include:

(a) Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, unless the farm tractor or farm vehicle is for use in the production of ((marijuana)) cannabis;

(b) Off-road vehicles as defined in RCW 46.04.365;

(c) Nonhighway vehicles as defined in RCW 46.09.310; and

(d) Snowmobiles as defined in RCW 46.04.546.

(5) Beginning on December 8, 2005, 0.16 percent of the taxes collected under subsection (1) of this section must be dedicated to funding comprehensive performance audits required under RCW 43.09.470. The revenue identified in this subsection must be deposited in the performance audits of government account created in RCW 43.09.475.

(6) The taxes imposed under this chapter apply to successive retail sales of the same property.

(7) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

**Sec. 146.** RCW 82.08.02565 and 2015 3rd sp.s. c 5 s 301 are each amended to read as follows:

(1)(a) The tax levied by RCW 82.08.020 does not apply to sales to a manufacturer or processor for hire of machinery and equipment used directly in a manufacturing operation or research and development operation, to sales to a person engaged in testing for a manufacturer or processor for hire of machinery and equipment used directly in a testing operation, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the machinery and equipment.

(b) Except as provided in (c) of this subsection, sellers making tax-exempt sales under this section must obtain from the purchaser an exemption certificate in a form and manner prescribed by the department by rule. The seller must retain a copy of the certificate for the seller's files.

(c)(i) The exemption under this section is in the form of a remittance for a gas distribution business, as defined in RCW 82.16.010, claiming the exemption for machinery and equipment used for the production of compressed natural gas or liquefied natural gas for use as a transportation fuel.

(ii) A gas distribution business claiming an exemption from state and local tax in the form of a remittance under this section must pay the tax under RCW 82.08.020 and all applicable local sales taxes. Beginning July 1, 2017, the gas distribution business may then apply to the department for remittance of state and local sales and use taxes. A gas distribution business may not apply for a remittance more frequently than once a quarter. The gas distribution business must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The gas distribution business must retain, in

adequate detail, records to enable the department to determine whether the business is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(iii) The department must determine eligibility under this section based on the information provided by the gas distribution business, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying businesses who submitted applications during the previous quarter.

(iv) Beginning July 1, 2028, a gas distribution business may not apply for a refund under this section or RCW 82.12.02565.

(2) For purposes of this section and RCW 82.12.02565:

(a) "Machinery and equipment" means industrial fixtures, devices, and support facilities, and tangible personal property that becomes an ingredient or component thereof, including repair parts and replacement parts. "Machinery and equipment" includes pollution control equipment installed and used in a manufacturing operation, testing operation, or research and development operation to prevent air pollution, water pollution, or contamination that might otherwise result from the manufacturing operation, testing operation, or research and development operation. "Machinery and equipment" also includes digital goods.

(b) "Machinery and equipment" does not include:

(i) Hand-powered tools;

(ii) Property with a useful life of less than one year;

(iii) Buildings, other than machinery and equipment that is permanently affixed to or becomes a physical part of a building; and

(iv) Building fixtures that are not integral to the manufacturing operation, testing operation, or research and development operation that are permanently affixed to and become a physical part of a building, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical.

(c) Machinery and equipment is "used directly" in a manufacturing operation, testing operation, or research and development operation if the machinery and equipment:

(i) Acts upon or interacts with an item of tangible personal property;

(ii) Conveys, transports, handles, or temporarily stores an item of tangible personal property at the manufacturing site or testing site;

(iii) Controls, guides, measures, verifies, aligns, regulates, or tests tangible personal property at the site or away from the site;

(iv) Provides physical support for or access to tangible personal property;

(v) Produces power for, or lubricates machinery and equipment;

(vi) Produces another item of tangible personal property for use in the manufacturing operation, testing operation, or research and development operation;

(vii) Places tangible personal property in the container, package, or wrapping in which the tangible personal property is normally sold or transported; or

(viii) Is integral to research and development as defined in RCW 82.63.010.

(d) "Manufacturer" means a person that qualifies as a manufacturer under RCW 82.04.110. "Manufacturer" also includes a person that:

(i) Prints newspapers or other materials; or

(ii) Is engaged in the development of prewritten computer software that is not transferred to purchasers by means of tangible storage media.

(e) "Manufacturing" means only those activities that come within the definition of "to manufacture" in RCW 82.04.120 and are taxed as manufacturing or processing for hire under chapter 82.04 RCW, or would be taxed as such if such activity were conducted in this state or if not for an exemption or deduction. "Manufacturing" also includes printing newspapers or other materials. An activity is not taxed as manufacturing or processing for hire under chapter 82.04 RCW if the activity is within the purview of chapter 82.16 RCW.

(f) "Manufacturing operation" means the manufacturing of articles, substances, or commodities for sale as tangible personal property. A manufacturing operation begins at the point where the raw materials enter the manufacturing site and ends at the point where the processed material leaves the manufacturing site. With respect to the production of class A or exceptional quality biosolids by a wastewater treatment facility, the manufacturing operation begins at the point where class B biosolids undergo additional processing to achieve class A or exceptional quality standards. Notwithstanding anything to the contrary in this section, the term also includes that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part. The term does not include the preparation of food products on the premises of a person selling food products at retail.

(g) "Cogeneration" means the simultaneous generation of electrical energy and low-grade heat from the same fuel.

(h) "Research and development operation" means engaging in research and development as defined in RCW 82.63.010 by a manufacturer or processor for hire.

(i) "Testing" means activities performed to establish or determine the properties, qualities, and limitations of tangible personal property.

(j) "Testing operation" means the testing of tangible personal property for a manufacturer or processor for hire. A testing operation begins at the point where the tangible personal property enters the testing site and ends at the point where the tangible personal property leaves the testing site. The term also includes the testing of tangible personal property for use in that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part. The term does not include the testing of tangible personal property for use in the production of electricity by a light and power business as defined in RCW 82.16.010 or the preparation of food products on the premises of a person selling food products at retail.

(3) This section does not apply (a) to sales of machinery and equipment used directly in the manufacturing, research and development, or testing of ~~((marijuana))~~ cannabis, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products, or (b) to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving such machinery and equipment.

(4) The exemptions in this section do not apply to an ineligible person. For purposes of this subsection, the following definitions apply:

(a) "Affiliated group" means a group of two or more entities that are either:

(i) Affiliated as defined in RCW 82.32.655; or

(ii) Permitted to file a consolidated return for federal income tax purposes.

(b) "Ineligible person" means all members of an affiliated group if all of the following apply:

(i) At least one member of the affiliated group was registered with the department to do business in Washington state on or before July 1, 1981;

(ii) As of August 1, 2015, the combined employment in this state of the affiliated group exceeds forty thousand full-time and part-time employees, based on data reported to the employment security department by the affiliated group; and

(iii) The business activities of the affiliated group primarily include development, sales, and licensing of computer software and services.

**Sec. 147.** RCW 82.08.0257 and 2014 c 140 s 15 are each amended to read as follows:

The tax levied by RCW 82.08.020 does not apply to auction sales made by or through auctioneers of personal property (including household goods) that has been used in conducting a farm activity, when the seller thereof is a farmer as defined in RCW 82.04.213 and the sale is held or conducted upon a farm and not otherwise. The exemption in this section does not apply to personal property used by the seller in the production of ~~((marijuana, or marijuana-infused))~~ cannabis, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products.

**Sec. 148.** RCW 82.08.0273 and 2019 c 423 s 101 are each amended to read as follows:

(1) Subject to the conditions and limitations in this section, an exemption from the tax levied by RCW 82.08.020 in the form of a remittance from the department is provided for sales to nonresidents of this state of tangible personal property, digital goods, and digital codes. The exemption only applies if:

(a) The property is for use outside this state;

(b) The purchaser is a bona fide resident of a province or territory of Canada or a state, territory, or possession of the United States, other than the state of Washington; and

(i) Such state, possession, territory, or province does not impose, or have imposed on its behalf, a generally applicable retail sales tax, use tax, value added tax, gross receipts tax on retailing activities, or similar generally applicable tax, of three percent or more; or

(ii) If imposing a tax described in (b)(i) of this subsection, provides an exemption for sales to Washington residents by reason of their residence; and

(c) The purchaser agrees, when requested, to grant the department of revenue access to such records and other forms of verification at the purchaser's place of residence to assure that such purchases are not first used substantially in the state of Washington.

(2) Notwithstanding anything to the contrary in this chapter, if parts or other tangible personal property are installed by the seller during the course of repairing, cleaning, altering, or improving motor vehicles, trailers, or campers and the seller makes a separate charge for the tangible personal property, the tax levied by RCW 82.08.020 does not apply to the separately stated charge to a nonresident purchaser for the tangible personal property but only if the seller



certifies in writing to the purchaser that the separately stated charge does not exceed either the seller's current publicly stated retail price for the tangible personal property or, if no publicly stated retail price is available, the seller's cost for the tangible personal property. However, the exemption provided by this section does not apply if tangible personal property is installed by the seller during the course of repairing, cleaning, altering, or improving motor vehicles, trailers, or campers and the seller makes a single nonitemized charge for providing the tangible personal property and service. All of the provisions in subsections (1) and (3) through (7) of this section apply to this subsection.

(3)(a) Any person claiming exemption from retail sales tax under the provisions of this section must pay the state and local sales tax to the seller at the time of purchase and then request a remittance from the department in accordance with this subsection and subsection (4) of this section. A request for remittance must include proof of the person's status as a nonresident at the time of the purchase for which a remittance is requested. The request for a remittance must also include any additional information and documentation as required by the department, which may include a description of the item purchased for which a remittance is requested, the sales price of the item, the amount of sales tax paid on the item, the date of the purchase, the name of the seller and the physical address where the sale took place, and copies of sales receipts showing the qualified purchases.

(b) Acceptable proof of a nonresident person's status includes one piece of identification such as a valid driver's license from the jurisdiction in which the out-of-state residency is claimed or a valid identification card which has a photograph of the holder and is issued by the out-of-state jurisdiction. Identification under this subsection (3)(b) must show the holder's residential address and have as one of its legal purposes the establishment of residency in that out-of-state jurisdiction.

(4)(a)(i) Beginning January 1, 2020, through December 31, 2020, a person may request a remittance from the department for state sales taxes paid by the person on qualified retail purchases made in Washington between July 1, 2019, and December 31, 2019.

(ii) Beginning January 1, 2021, a person may request a remittance from the department during any calendar year for state sales taxes paid by the person on qualified retail purchases made in Washington during the immediately preceding calendar year only. No application may be made with respect to purchases made before the immediately preceding calendar year.

(b) The remittance request, including proof of nonresident status and any other documentation and information required by the department, must be provided in a form and manner as prescribed by the department. Only one remittance request may be made by a person per calendar year.

(c) The total amount of a remittance request must be at least twenty-five dollars. The department must deny any request for a remittance that is less than twenty-five dollars.

(d) The department will examine the applicant's proof of nonresident status and any other documentation and information as required in the application to determine whether the applicant is entitled to a remittance under this section.

(5)(a) Any person making fraudulent statements to the department, which includes the offer of fraudulent or fraudulently procured identification or

fraudulent sales receipts, in order to receive a remittance of retail sales tax is guilty of perjury under chapter 9A.72 RCW and is ineligible to receive any further remittances from the department under this section.

(b) Any person obtaining a remittance of retail sales tax from the department by providing proof of identification or sales receipts not the person's own, or counterfeit identification or sales receipts is (i) liable for repayment of the remittance, including interest as provided in chapter 82.32 RCW from the date the remittance was transmitted to the person until repaid in full, (ii) liable for a civil penalty equal to the greater of one hundred dollars or the amount of the remittance obtained in violation of this subsection (5)(b), and (iii) ineligible to receive any further remittances from the department under this section.

(c) Any person assisting another person in obtaining a remittance of retail sales tax in violation of (b) of this subsection is jointly and severally liable for amounts due under (b) of this subsection and is also ineligible to receive any further remittances from the department under this section.

(6) A person who receives a refund of sales tax from the seller for any reason with respect to a purchase made in this state is not entitled to a remittance for the tax paid on the purchase. A person who receives both a remittance under this section and a refund of sales tax from the seller with respect to the same purchase must immediately repay the remittance to the department. Interest as provided in chapter 82.32 RCW applies to amounts due under this section from the date that the department made the remittance until the amount due under this subsection is paid to the department. A person who receives a remittance with respect to a purchase for which the person had, at the time the person submitted the application for a remittance, already received a refund of sales tax from the seller is also liable for a civil penalty equal to the greater of one hundred dollars or the amount of the remittance obtained in violation of this subsection and is ineligible to receive any further remittances from the department under this section.

(7) The exemption provided by this section is only for the state portion of the sales tax. For purposes of this section, the state portion of the sales tax is not reduced by any local sales tax that is deducted or credited against the state sales tax as provided by law.

(8) The exemption in this section does not apply to sales of ~~((marijuana))~~ cannabis, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products.

**Sec. 149.** RCW 82.08.02745 and 2021 c 250 s 1 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to charges made for labor and services rendered by any person in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures, in which at least 50 percent of housing units in the development are used as farmworker housing, or to sales of tangible personal property that becomes an ingredient or component of the buildings or other structures during the course of the constructing, repairing, decorating, or improving the buildings or other structures. The exemption is provided for all housing units in the development and is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department by rule.

(2) The exemption provided in this section for farmworker housing provided on a year-round basis only applies if that housing is built to the current building code for single-family or multifamily dwellings according to the state building code, chapter 19.27 RCW.

(3) Any farmworker housing built under this section must be used according to this section for at least five consecutive years from the date the housing is approved for occupancy, or the full amount of tax otherwise due is immediately due and payable together with interest, but not penalties, from the date the housing is approved for occupancy until the date of payment. If at any time farmworker housing ceases to be used in the manner specified in subsection (2) of this section, the full amount of tax otherwise due is immediately due and payable with interest, but not penalties, from the date the housing ceases to be used as farmworker housing until the date of payment.

(4) The exemption provided in this section does not apply to housing built for the occupancy of an employer, family members of an employer, or persons owning stock or shares in a farm partnership or corporation business. The exemption provided in this section does not apply to housing built exclusively for workers in the United States on an H-2A visa under the United States citizenship and immigration services.

(5) If during any agricultural season in the qualifying five years under subsection (3) of this section the housing is occupied by a farmworker who does not have an H-2A visa, then the housing will be considered not to be exclusively built for workers on an H-2A visa.

(6) For purposes of this section and RCW 82.12.02685, the following definitions apply unless the context clearly requires otherwise.

(a) "Agricultural employer" or "employer" has the same meaning as given in RCW 19.30.010, and includes any employer engaged in aquaculture as defined in RCW 15.85.020.

(b) "Farm work" means services relating to:

(i) Cultivating the soil, raising or harvesting, or catching, netting, handling, planting, drying, packing, grading, storing, or preserving in its unmanufactured state any agricultural or aquacultural commodity;

(ii) Delivering to storage, market, or a carrier for transportation to market or to processing any agricultural or aquacultural commodity; or

(iii) Working in a processing plant and directly handling agricultural or aquacultural product.

(c) "Farmworker" means a single person, or all members of a household, whether such persons are related or not, if the combined household income earned from farm work is at least \$3,000 per calendar year.

(d) "Farmworker housing" means all facilities provided by an agricultural employer, housing authority, local government, state or federal agency, nonprofit community or neighborhood-based organization that is exempt from income tax under section 501(c) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)), or for-profit provider of housing for housing farmworkers on a year-round or seasonal basis, including bathing, food handling, hand washing, laundry, and toilet facilities, single-family and multifamily dwelling units and dormitories, and includes labor camps under RCW 70.114A.110.

(i) "Farmworker housing" includes:

(A) Housing occupied by a household with at least one member who is a farmworker; and

(B) Housing occupied by a farmworker on a seasonal basis, where the housing is not used as farmworker housing for a portion of the year, such as when it is rented to the general public when not being used for farmworker housing.

(ii) "Farmworker housing" does not include:

(A) Housing regularly provided on a commercial basis to the general public;

(B) Housing provided by a housing authority unless at least eighty percent of the occupants are farmworkers whose adjusted income is less than fifty percent of median family income, adjusted for household size, for the county where the housing is provided; and

(C) Housing provided to farmworkers providing services related to the growing, raising, or producing of ~~((marijuana))~~ cannabis.

(7) This section expires January 1, 2032.

**Sec. 150.** RCW 82.08.0281 and 2014 c 140 s 19 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of drugs for human use dispensed or to be dispensed to patients, pursuant to a prescription.

(2) The tax levied by RCW 82.08.020 does not apply to sales of drugs or devices used for family planning purposes, including the prevention of conception, for human use dispensed or to be dispensed to patients, pursuant to a prescription.

(3) The tax levied by RCW 82.08.020 does not apply to sales of drugs and devices used for family planning purposes, including the prevention of conception, for human use supplied by a family planning clinic that is under contract with the department of health to provide family planning services.

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

(a) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to prescribe.

(b) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, ~~((or))~~ alcoholic beverages, ~~((marijuana))~~ cannabis, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products:

(i) Recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; or

(ii) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

(iii) Intended to affect the structure or any function of the body.

(c) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug required by 21 C.F.R. Sec. 201.66, as amended or renumbered on January 1, 2003. The label includes:

(i) A "drug facts" panel; or

(ii) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance, or preparation.

**Sec. 151.** RCW 82.08.0288 and 2014 c 140 s 20 are each amended to read as follows:

The tax levied by RCW 82.08.020 does not apply to the lease of irrigation equipment if:

- (1) The irrigation equipment was purchased by the lessor for the purpose of irrigating land controlled by the lessor;
- (2) The lessor has paid tax under RCW 82.08.020 or 82.12.020 in respect to the irrigation equipment;
- (3) The irrigation equipment is attached to the land in whole or in part;
- (4) The irrigation equipment is not used in the production of (~~marijuana~~) cannabis; and
- (5) The irrigation equipment is leased to the lessee as an incidental part of the lease of the underlying land to the lessee and is used solely on such land.

**Sec. 152.** RCW 82.08.0293 and 2021 c 176 s 5249 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

- (a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume;
- (b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco; and
- (c) (~~Marijuana~~) Cannabis, useable (~~marijuana, or marijuana-infused~~) cannabis, or cannabis-infused products.

(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, or dietary supplements. The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Bottled water" means water that is placed in a safety sealed container or package for human consumption. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(b) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

- (i) Contains one or more of the following dietary ingredients:
  - (A) A vitamin;
  - (B) A mineral;
  - (C) An herb or other botanical;
  - (D) An amino acid;
  - (E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
  - (F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(c)(i) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(I) Food that is only cut, repackaged, or pasteurized by the seller; or

(II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(ii) Food is "sold with eating utensils provided by the seller" if:

(A) The seller's customary practice for that item is to physically deliver or hand a utensil to the customer with the food or food ingredient as part of the sales transaction. If the food or food ingredient is prepackaged with a utensil, the seller is considered to have physically delivered a utensil to the customer unless the food and utensil are prepackaged together by a food manufacturer classified under sector 311 of the North American industry classification system (NAICS);

(B) A plate, glass, cup, or bowl is necessary to receive the food or food ingredient, and the seller makes those utensils available to its customers; or

(C)(I) The seller makes utensils available to its customers, and the seller has more than seventy-five percent prepared food sales. For purposes of this subsection (2)(c)(ii)(C), a seller has more than seventy-five percent prepared food sales if the seller's gross retail sales of prepared food under (c)(i)(A), (c)(i)(C), and (c)(ii)(B) of this subsection equal more than seventy-five percent of the seller's gross retail sales of all food and food ingredients, including prepared food, soft drinks, and dietary supplements.

(II) However, even if a seller has more than seventy-five percent prepared food sales, four servings or more of food or food ingredients packaged for sale as a single item and sold for a single price are not "sold with utensils provided by the seller" unless the seller's customary practice for the package is to physically hand or otherwise deliver a utensil to the customer as part of the sales transaction. Whenever available, the number of servings included in a package of food or food ingredients must be determined based on the manufacturer's product label. If no label is available, the seller must reasonably determine the number of servings.

(III) The seller must determine a single prepared food sales percentage annually for all the seller's establishments in the state based on the prior year of sales. The seller may elect to determine its prepared food sales percentage based either on the prior calendar year or on the prior fiscal year. A seller may not

change its elected method for determining its prepared food percentage without the written consent of the department. The seller must determine its annual prepared food sales percentage as soon as possible after accounting records are available, but in no event later than ninety days after the beginning of the seller's calendar or fiscal year. A seller may make a good faith estimate of its first annual prepared food sales percentage if the seller's records for the prior year are not sufficient to allow the seller to calculate the prepared food sales percentage. The seller must adjust its good faith estimate prospectively if its relative sales of prepared foods in the first ninety days of operation materially depart from the seller's estimate.

(iii) "Prepared food" does not include the following items, if sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system—United States, 2002";

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(d) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a nonprofit organization organized under chapter 24.03A or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under 42 U.S.C. Sec. 1485; and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a

vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) For soft drinks, bottled water, and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

**Sec. 153.** RCW 82.08.820 and 2014 c 140 s 23 are each amended to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Construction of a warehouse or grain elevator, including materials, and including service and labor costs, are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion if the expansion adds at least two hundred thousand square feet of additional space to an existing warehouse or additional storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

(c) "Department" means the department of revenue;

(d) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

(e) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include:

(i) Agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product;

(ii) Logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk; or

(iii) ~~((Marijuana))~~ Cannabis, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products;

(f) "Grain elevator" means a structure used for storage and handling of grain in bulk;

(g) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle,



store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

(h) "Person" has the meaning given in RCW 82.04.030;

(i) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

(j) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse must be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

(k) "Third-party whouser" means a person taxable under RCW 82.04.280(1)(d);

(l) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

(m) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking

equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.

(b) The department must determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer must on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer must retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department must on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses and grain elevators upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

**Sec. 154.** RCW 82.08.9997 and 2015 c 207 s 4 are each amended to read as follows:

The taxes imposed by this chapter do not apply to the retail sale of (~~(marijuana)~~) cannabis, useable (~~(marijuana, marijuana)~~) cannabis, cannabis concentrates, and (~~(marijuana-infused)~~) cannabis-infused products covered by an agreement entered into under RCW 43.06.490. (~~("Marijuana,")~~) "Cannabis," "useable (~~(marijuana,~~" "~~marijuana)~~) cannabis," "cannabis concentrates," and (~~("marijuana-infused)~~) "cannabis-infused products" have the same meaning as defined in RCW 69.50.101.

**Sec. 155.** RCW 82.08.9998 and 2019 c 393 s 4 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to:

(a) Sales of (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused products, identified by the department of health in rules adopted under RCW 69.50.375(4) in chapter 246-70 WAC as being a compliant (~~(marijuana)~~) cannabis product, by (~~(marijuana)~~) cannabis retailers with medical (~~(marijuana)~~) cannabis endorsements to qualifying patients or designated providers who have been issued recognition cards;

(b) Sales of products containing THC with a THC concentration of 0.3 percent or less to qualifying patients or designated providers who have been

issued recognition cards by ~~((marijuana))~~ cannabis retailers with medical ~~((marijuana))~~ cannabis endorsements;

(c) Sales of ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products, identified by the department of health under RCW 69.50.375 to have a low THC, high CBD ratio, and to be beneficial for medical use, by ~~((marijuana))~~ cannabis retailers with medical ~~((marijuana))~~ cannabis endorsements, to any person;

(d) Sales of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by health care professionals under RCW 69.51A.280;

(e)(i) ~~((Marijuana, marijuana))~~ Cannabis, cannabis concentrates, useable ~~((marijuana, marijuana-infused))~~ cannabis, cannabis-infused products, or products containing THC with a THC concentration of 0.3 percent or less produced by a cooperative and provided to its members; and

(ii) Any nonmonetary resources and labor contributed by an individual member of the cooperative in which the individual is a member. However, nothing in this subsection (1)(e) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW 82.08.020 on any purchase of property or services contributed to the cooperative.

(2) Each seller making exempt sales under subsection (1) of this section must maintain information establishing eligibility for the exemption in the form and manner required by the department.

(3) The department must provide a separate tax reporting line for exemption amounts claimed under this section.

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

(a) "Cooperative" means a cooperative authorized by and operating in compliance with RCW 69.51A.250.

(b) ~~(("Marijuana))~~ "Cannabis retailer with a medical ~~((marijuana))~~ cannabis endorsement" means a ~~((marijuana))~~ cannabis retailer permitted under RCW 69.50.375 to sell ~~((marijuana))~~ cannabis for medical use to qualifying patients and designated providers.

(c) "Products containing THC with a THC concentration of 0.3 percent or less" means all products containing THC with a THC concentration not exceeding 0.3 percent and that, when used as intended, are inhalable, ingestible, or absorbable.

(d) "THC concentration," ~~((("marijuana," "marijuana))~~ "cannabis," "cannabis concentrates," "useable ~~((marijuana," "marijuana))~~ cannabis," "cannabis retailer," and ~~((("marijuana-infused))~~ "cannabis-infused products" have the same meanings as provided in RCW 69.50.101 and the terms "qualifying patients," "designated providers," and "recognition card" have the same meaning as provided in RCW 69.51A.010.

**Sec. 156.** RCW 82.12.02565 and 2015 3rd sp.s. c 5 s 302 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use by a manufacturer or processor for hire of machinery and equipment used directly in a manufacturing operation or research and development operation, to the use by a person engaged in testing for a manufacturer or processor for hire of machinery and equipment used directly in a testing operation, or to the use of

labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the machinery and equipment.

(2) The definitions, conditions, and requirements in RCW 82.08.02565 apply to this section.

(3) This section does not apply to the use of (a) machinery and equipment used directly in the manufacturing, research and development, or testing of (~~(marijuana)~~) cannabis, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused products, or (b) labor and services rendered in respect to installing, repairing, cleaning, altering, or improving such machinery and equipment.

(4) The exemptions in this section do not apply to an ineligible person as defined in RCW 82.08.02565.

**Sec. 157.** RCW 82.12.0258 and 2014 c 140 s 16 are each amended to read as follows:

The provisions of this chapter do not apply in respect to the use of personal property (including household goods) that has been used in conducting a farm activity, if such property was purchased from a farmer as defined in RCW 82.04.213 at an auction sale held or conducted by an auctioneer upon a farm and not otherwise. The exemption in this section does not apply to personal property used by the seller in the production of (~~(marijuana)~~) cannabis, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused products.

**Sec. 158.** RCW 82.12.0283 and 2014 c 140 s 21 are each amended to read as follows:

The provisions of this chapter do not apply to the use of irrigation equipment if:

(1) The irrigation equipment was purchased by the lessor for the purpose of irrigating land controlled by the lessor;

(2) The lessor has paid tax under RCW 82.08.020 or 82.12.020 in respect to the irrigation equipment;

(3) The irrigation equipment is attached to the land in whole or in part;

(4) The irrigation equipment is not used in the production of (~~(marijuana)~~) cannabis; and

(5) The irrigation equipment is leased to the lessee as an incidental part of the lease of the underlying land to the lessee and is used solely on such land.

**Sec. 159.** RCW 82.12.9997 and 2015 c 207 s 5 are each amended to read as follows:

The taxes imposed by this chapter do not apply to the use of (~~(marijuana)~~) cannabis, useable (~~(marijuana, marijuana)~~) cannabis, cannabis concentrates, and (~~(marijuana-infused)~~) cannabis-infused products covered by an agreement entered into under RCW 43.06.490. (~~("Marijuana,")~~) "Cannabis," "useable (marijuana, "marijuana) cannabis," "cannabis concentrates," and ("marijuana-infused) cannabis-infused products" have the same meaning as defined in RCW 69.50.101.

**Sec. 160.** RCW 82.12.9998 and 2019 c 393 s 5 are each amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The use of (~~(marijuana)~~) cannabis concentrates, useable (~~(marijuana, or marijuana-infused)~~) cannabis, or cannabis-infused products, identified by the

department of health in rules adopted under RCW 69.50.375(4) in chapter 246-70 WAC as being a compliant ~~((marijuana))~~ cannabis product, by qualifying patients or designated providers who have been issued recognition cards and have obtained such products from a ~~((marijuana))~~ cannabis retailer with a medical ~~((marijuana))~~ cannabis endorsement.

(b) The use of products containing THC with a THC concentration of 0.3 percent or less by qualifying patients or designated providers who have been issued recognition cards and have obtained such products from a ~~((marijuana))~~ cannabis retailer with a medical ~~((marijuana))~~ cannabis endorsement.

(c)(i) ~~((Marijuana))~~ Cannabis retailers with a medical ~~((marijuana))~~ cannabis endorsement with respect to:

(A) ~~((Marijuana))~~ Cannabis concentrates, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products; or

(B) Products containing THC with a THC concentration of 0.3 percent or less;

(ii) The exemption in this subsection (1)(c) applies only if such products are provided at no charge to a qualifying patient or designated provider who has been issued a recognition card. Each such retailer providing such products at no charge must maintain information establishing eligibility for this exemption in the form and manner required by the department.

(d) The use of ~~((marijuana))~~ cannabis concentrates, useable ~~((marijuana, or marijuana-infused))~~ cannabis, or cannabis-infused products, identified by the department of health under RCW 69.50.375 to have a low THC, high CBD ratio, and to be beneficial for medical use, purchased from ~~((marijuana))~~ cannabis retailers with a medical ~~((marijuana))~~ cannabis endorsement.

(e) Health care professionals with respect to the use of products containing THC with a THC concentration of 0.3 percent or less provided at no charge by the health care professionals under RCW 69.51A.280. Each health care professional providing such products at no charge must maintain information establishing eligibility for this exemption in the form and manner required by the department.

(f) The use of topical, noningestible products containing THC with a THC concentration of 0.3 percent or less by qualifying patients when purchased from or provided at no charge by a health care professional under RCW 69.51A.280.

(g) The use of:

(i) ~~((Marijuana, marijuana))~~ Cannabis, cannabis concentrates, useable ~~((marijuana, marijuana-infused))~~ cannabis, cannabis-infused products, or products containing THC with a THC concentration of 0.3 percent or less, by a cooperative and its members, when produced by the cooperative; and

(ii) Any nonmonetary resources and labor by a cooperative when contributed by its members. However, nothing in this subsection (1)(g) may be construed to exempt the individual members of a cooperative from the tax imposed in RCW 82.12.020 on the use of any property or services purchased by the member and contributed to the cooperative.

(2) The definitions in RCW 82.08.9998 apply to this section.

**Sec. 161.** RCW 82.14.430 and 2014 c 140 s 24 are each amended to read as follows:

(1) If approved by the majority of the voters within its boundaries voting on the ballot proposition, a regional transportation investment district may impose a

sales and use tax of up to 0.1 percent of the selling price or value of the article used in the case of a use tax. The tax authorized by this section is in addition to the tax authorized by RCW 82.14.030 and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing district. Motor vehicles are exempt from the sales and use tax imposed under this subsection.

(2) If approved by the majority of the voters within its boundaries voting on the ballot proposition, a regional transportation investment district may impose a tax on the use of a motor vehicle within a regional transportation investment district. The tax applies to those persons who reside within the regional transportation investment district. The rate of the tax may not exceed 0.1 percent of the value of the motor vehicle. The tax authorized by this subsection is in addition to the tax authorized under RCW 82.14.030 and must be imposed and collected at the time a taxable event under RCW 82.08.020(1) or 82.12.020 takes place. All revenue received under this subsection must be deposited in the local sales and use tax account and distributed to the regional transportation investment district according to RCW 82.14.050. The following provisions apply to the use tax in this subsection:

(a) Where persons are taxable under chapter 82.08 RCW, the seller must collect the use tax from the buyer using the collection provisions of RCW 82.08.050.

(b) Where persons are taxable under chapter 82.12 RCW, the use tax must be collected using the provisions of RCW 82.12.045.

(c) "Motor vehicle" has the meaning provided in RCW 46.04.320, but does not include:

(i) Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, unless the farm tractor or farm vehicle is for use in the production of ~~((marijuana))~~ cannabis;

(ii) Off-road vehicles as defined in RCW 46.04.365;

(iii) Nonhighway vehicles as defined in RCW 46.09.310; and

(iv) Snowmobiles as defined in RCW 46.04.546.

(d) "Person" has the meaning given in RCW 82.04.030.

(e) The value of a motor vehicle must be determined under RCW 82.12.010.

(f) Except as specifically stated in this subsection (2), chapters 82.12 and 82.32 RCW apply to the use tax. The use tax is a local tax imposed under the authority of this chapter (~~((82.14 RCW))~~), and this chapter (~~((82.14 RCW))~~) applies fully to the use tax.

(3) In addition to fulfilling the notice requirements under RCW 82.14.055(1), and unless waived by the department, a regional transportation investment district must provide the department of revenue with digital mapping and legal descriptions of areas in which the tax will be collected.

**Sec. 162.** RCW 82.16.050 and 2014 c 140 s 25 are each amended to read as follows:

In computing tax there may be deducted from the gross income the following items:

(1) Amounts derived by municipally owned or operated public service businesses, directly from taxes levied for the support or maintenance thereof. This subsection may not be construed to exempt service charges which are spread on the property tax rolls and collected as taxes;

(2) Amounts derived from the sale of commodities to persons in the same public service business as the seller, for resale as such within this state. This deduction is allowed only with respect to water distribution, gas distribution or other public service businesses which furnish water, gas or any other commodity in the performance of public service businesses;

(3) Amounts actually paid by a taxpayer to another person taxable under this chapter as the latter's portion of the consideration due for services furnished jointly by both, if the total amount has been credited to and appears in the gross income reported for tax by the former;

(4) The amount of cash discount actually taken by the purchaser or customer;

(5) The amount of bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003, on which tax was previously paid under this chapter;

(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(7) Amounts derived from the distribution of water through an irrigation system, for irrigation purposes other than the irrigation of ~~((marijuana))~~ cannabis as defined under RCW 69.50.101;

(8) Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this state, or from points of origin outside this state to final destination in this state, with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination;

(9) Amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or ship side on tidewater or its navigable tributaries to be forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations. No deduction is allowed under this subsection when the point of origin and the point of delivery to the export elevator, wharf, dock, or ship side are located within the corporate limits of the same city or town;

(10) Amounts derived from the transportation of agricultural commodities, not including manufactured substances or articles, from points of origin in the state to interim storage facilities in this state for transshipment, without intervening transportation, to an export elevator, wharf, dock, or ship side on tidewater or its navigable tributaries to be forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations. If agricultural commodities are transshipped from interim storage facilities in this state to storage facilities at a port on tidewater or its navigable tributaries, the same agricultural commodity dealer must operate both the interim storage facilities and the storage facilities at the port.

(a) The deduction under this subsection is available only when the person claiming the deduction obtains a certificate from the agricultural commodity dealer operating the interim storage facilities, in a form and manner prescribed by the department, certifying that:

(i) More than ninety-six percent of all of the type of agricultural commodity delivered by the person claiming the deduction under this subsection and delivered by all other persons to the dealer's interim storage facilities during the preceding calendar year was shipped by vessel in original form to interstate or foreign destinations; and

(ii) Any of the agricultural commodity that is transshipped to ports on tidewater or its navigable tributaries will be received at storage facilities operated by the same agricultural commodity dealer and will be shipped from such facilities, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations.

(b) As used in this subsection, "agricultural commodity" has the same meaning as agricultural product in RCW 82.04.213;

(11) Amounts derived from the production, sale, or transfer of electrical energy for resale within or outside the state or for consumption outside the state;

(12) Amounts derived from the distribution of water by a nonprofit water association and used for capital improvements by that nonprofit water association;

(13) Amounts paid by a sewerage collection business taxable under RCW 82.16.020(1)(a) to a person taxable under chapter 82.04 RCW for the treatment or disposal of sewage;

(14) Amounts derived from fees or charges imposed on persons for transit services provided by a public transportation agency. For the purposes of this subsection, "public transportation agency" means a municipality, as defined in RCW 35.58.272, and urban public transportation systems, as defined in RCW 47.04.082. Public transportation agencies must spend an amount equal to the reduction in tax provided by this tax deduction solely to adjust routes to improve access for citizens using food banks and senior citizen services or to extend or add new routes to assist low-income citizens and seniors.

**Sec. 163.** RCW 82.25.005 and 2019 c 445 s 101 are each amended to read as follows:

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

(1) "Accessible container" means a container that is intended to be opened. The term does not mean a closed cartridge or closed container that is not intended to be opened such as a disposable e-cigarette.

(2) "Affiliated" means related in any way by virtue of any form or amount of common ownership, control, operation, or management.

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

(4) "Business" means any trade, occupation, activity, or enterprise engaged in selling or distributing vapor products in this state.

(5) "Distributor" (~~means~~) means any person:

(a) Engaged in the business of selling vapor products in this state who brings, or causes to be brought, into this state from outside the state any vapor products for sale;

(b) Who makes, manufactures, fabricates, or stores vapor products in this state for sale in this state;

(c) Engaged in the business of selling vapor products outside this state who ships or transports vapor products to retailers or consumers in this state; or



(d) Engaged in the business of selling vapor products in this state who handles for sale any vapor products that are within this state but upon which tax has not been imposed.

(6) "Indian country" has the same meaning as provided in RCW 82.24.010.

(7) "Manufacturer" has the same meaning as provided in RCW 70.345.010.

(8) "Manufacturer's representative" means a person hired by a manufacturer to sell or distribute the manufacturer's vapor products and includes employees and independent contractors.

(9) "Person" means: Any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, limited liability company, association, or society; the state and its departments and institutions; any political subdivision of the state of Washington; and any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. Except as provided otherwise in this chapter, "person" does not include any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country.

(10) "Place of business" means any place where vapor products are sold or where vapor products are manufactured, stored, or kept for the purpose of sale, including any vessel, vehicle, airplane, or train.

(11) "Retail outlet" has the same meaning as provided in RCW 70.345.010.

(12) "Retailer" has the same meaning as provided in RCW 70.345.010.

(13) "Sale" has the same meaning as provided in RCW 70.345.010.

(14) "Taxpayer" means a person liable for the tax imposed by this chapter.

(15) "Vapor product" means any noncombustible product containing a solution or other consumable substance, regardless of whether it contains nicotine, which employs a mechanical heating element, battery, or electronic circuit regardless of shape or size that can be used to produce vapor from the solution or other substance, including an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term also includes any cartridge or other container of liquid nicotine, solution, or other consumable substance, regardless of whether it contains nicotine, that is intended to be used with or in a device that can be used to deliver aerosolized or vaporized nicotine to a person inhaling from the device and is sold for such purpose.

(a) The term does not include:

(i) Any product approved by the United States food and drug administration for sale as a tobacco cessation product, medical device, or for other therapeutic purposes when such product is marketed and sold solely for such an approved purpose;

(ii) Any product that will become an ingredient or component in a vapor product manufactured by a distributor; or

(iii) Any product that meets the definition of ~~((marijuana))~~ cannabis, useable ~~((marijuana, marijuana))~~ cannabis, cannabis concentrates, ((marijuana-infused)) cannabis-infused products, cigarette, or tobacco products.

(b) For purposes of this subsection (15):

(i) "Cigarette" has the same meaning as provided in RCW 82.24.010; and

(ii) (~~("Marijuana,")~~) "Cannabis." "useable (~~(("marijuana," "marijuana")~~) cannabis." "cannabis concentrates," and (~~("marijuana-infused")~~) "cannabis-infused products" have the same meaning as provided in RCW 69.50.101.

**Sec. 164.** RCW 82.29A.020 and 2015 3rd sp.s. c 6 s 2004 are each amended to read as follows:

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

(1)(a) "Leasehold interest" means an interest in publicly owned, or specified privately owned, real or personal property which exists by virtue of any lease, permit, license, or any other agreement, written or verbal, between the owner of the property and a person who would not be exempt from property taxes if that person owned the property in fee, granting possession and use, to a degree less than fee simple ownership. However, no interest in personal property (excluding land or buildings) which is owned by the United States, whether or not as trustee, or by any foreign government may constitute a leasehold interest hereunder when the right to use such property is granted pursuant to a contract solely for the manufacture or production of articles for sale to the United States or any foreign government. The term "leasehold interest" includes the rights of use or occupancy by others of property which is owned in fee or held in trust by a public corporation, commission, or authority created under RCW 35.21.730 or 35.21.660 if the property is listed on or is within a district listed on any federal or state register of historical sites.

(b) The term "leasehold interest" does not include:

(i) Road or utility easements, rights of access, occupancy, or use granted solely for the purpose of removing materials or products purchased from an owner or the lessee of an owner, or rights of access, occupancy, or use granted solely for the purpose of natural energy resource exploration; or

(ii) The preferential use of publicly owned cargo cranes and docks and associated areas used in the loading and discharging of cargo located at a port district marine facility. "Preferential use" means that publicly owned real or personal property is used by a private party under a written agreement with the public owner, but the public owner or any third party maintains a right to use the property when not being used by the private party.

(2)(a) "Taxable rent" means contract rent as defined in (c) of this subsection in all cases where the lease or agreement has been established or renegotiated through competitive bidding, or negotiated or renegotiated in accordance with statutory requirements regarding the rent payable, or negotiated or renegotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor. With respect to a leasehold interest in privately owned property, "taxable rent" means contract rent. However, after January 1, 1986, with respect to any lease which has been in effect for ten years or more without renegotiation, taxable rent may be established by procedures set forth in (g) of this subsection. All other leasehold interests are subject to the determination of taxable rent under the terms of (g) of this subsection.

(b) For purposes of determining leasehold excise tax on any lands on the Hanford reservation subleased to a private or public entity by the department of ecology, taxable rent includes only the annual cash rental payment made by such entity to the department of ecology as specifically referred to as rent in the

sublease agreement between the parties and does not include any other fees, assessments, or charges imposed on or collected by such entity irrespective of whether the private or public entity pays or collects such other fees, assessments, or charges as specified in the sublease agreement.

(c) "Contract rent" means the amount of consideration due as payment for a leasehold interest, including: The total of cash payments made to the lessor or to another party for the benefit of the lessor according to the requirements of the lease or agreement, including any rents paid by a sublessee; expenditures for the protection of the lessor's interest when required by the terms of the lease or agreement; and expenditures for improvements to the property to the extent that such improvements become the property of the lessor. Where the consideration conveyed for the leasehold interest is made in combination with payment for concession or other rights granted by the lessor, only that portion of such payment which represents consideration for the leasehold interest is part of contract rent.

(d) "Contract rent" does not include: (i) Expenditures made by the lessee, which under the terms of the lease or agreement, are to be reimbursed by the lessor to the lessee or expenditures for improvements and protection made pursuant to a lease or an agreement which requires that the use of the improved property be open to the general public and that no profit will inure to the lessee from the lease; (ii) expenditures made by the lessee for the replacement or repair of facilities due to fire or other casualty including payments for insurance to provide reimbursement for losses or payments to a public or private entity for protection of such property from damage or loss or for alterations or additions made necessary by an action of government taken after the date of the execution of the lease or agreement; (iii) improvements added to publicly owned property by a sublessee under an agreement executed prior to January 1, 1976, which have been taxed as personal property of the sublessee prior to January 1, 1976, or improvements made by a sublessee of the same lessee under a similar agreement executed prior to January 1, 1976, and such improvements are taxable to the sublessee as personal property; (iv) improvements added to publicly owned property if such improvements are being taxed as personal property to any person.

(e) Any prepaid contract rent is considered to have been paid in the year due and not in the year actually paid with respect to prepayment for a period of more than one year. Expenditures for improvements with a useful life of more than one year which are included as part of contract rent must be treated as prepaid contract rent and prorated over the useful life of the improvement or the remaining term of the lease or agreement if the useful life is in excess of the remaining term of the lease or agreement. Rent prepaid prior to January 1, 1976, must be prorated from the date of prepayment.

(f) With respect to a "product lease," the value is that value determined at the time of sale under terms of the lease.

(g) If it is determined by the department of revenue, upon examination of a lessee's accounts or those of a lessor of publicly owned property, that a lessee is occupying or using publicly owned property in such a manner as to create a leasehold interest and that such leasehold interest has not been established through competitive bidding, or negotiated in accordance with statutory requirements regarding the rent payable, or negotiated under circumstances,

established by public record, clearly showing that the contract rent was the maximum attainable by the lessor, the department may establish a taxable rent computation for use in determining the tax payable under authority granted in this chapter based upon the following criteria: (i) Consideration must be given to rental being paid to other lessors by lessees of similar property for similar purposes over similar periods of time; (ii) consideration must be given to what would be considered a fair rate of return on the market value of the property leased less reasonable deductions for any restrictions on use, special operating requirements or provisions for concurrent use by the lessor, another person or the general public.

(3) "Product lease" as used in this chapter means a lease of property for use in the production of agricultural or marine products, not including the production of (~~(marijuana)~~) cannabis as defined in RCW 69.50.101, to the extent that such lease provides for the contract rent to be paid by the delivery of a stated percentage of the production of such agricultural or marine products to the credit of the lessor or the payment to the lessor of a stated percentage of the proceeds from the sale of such products.

(4) "Renegotiated" means a change in the lease agreement which changes the agreed time of possession, restrictions on use, the rate of the cash rental or of any other consideration payable by the lessee to or for the benefit of the lessor, other than any such change required by the terms of the lease or agreement. In addition "renegotiated" means a continuation of possession by the lessee beyond the date when, under the terms of the lease agreement, the lessee had the right to vacate the premises without any further liability to the lessor.

(5) "City" means any city or town.

(6) "Products" includes natural resource products such as cut or picked evergreen foliage, Cascara bark, wild edible mushrooms, native ornamental trees and shrubs, ore and minerals, natural gas, geothermal water and steam, and forage removed through the grazing of livestock.

(7) "Publicly owned, or specified privately owned, real or personal property" includes real or personal property:

(a) Owned in fee or held in trust by a public entity and exempt from property tax under the laws or Constitution of this state or the Constitution of the United States;

(b) Owned by a federally recognized Indian tribe in the state and exempt from property tax under RCW 84.36.010;

(c) Owned by a nonprofit fair association exempt from property tax under RCW 84.36.480(2), but only with respect to that portion of the fair's property subject to the tax imposed in this chapter pursuant to RCW 84.36.480(2)(b); or

(d) Owned by a community center exempt from property tax under RCW 84.36.010.

**Sec. 165.** RCW 82.84.030 and 2019 c 2 s 3 are each amended to read as follows:

For purposes of this chapter:

(1) "Alcoholic beverages" has the same meaning as provided in RCW 82.08.0293.

(2) "Groceries" means any raw or processed food or beverage, or any ingredient thereof, intended for human consumption except alcoholic beverages, (~~(marijuana)~~) cannabis products, and tobacco. "Groceries" includes, but is not

limited to, meat, poultry, fish, fruits, vegetables, grains, bread, milk, cheese and other dairy products, nonalcoholic beverages, kombucha with less than 0.5% alcohol by volume, condiments, spices, cereals, seasonings, leavening agents, eggs, cocoa, teas, and coffees whether raw or processed.

(3) "Local governmental entity" has the same meaning as provided in RCW 4.96.010.

(4) (~~"Marijuana~~) "Cannabis products" has the same meaning as provided in RCW 69.50.101.

(5) "Tax, fee, or other assessment on groceries" includes, but is not limited to, a sales tax, gross receipts tax, business and occupation tax, business license tax, excise tax, privilege tax, or any other similar levy, charge, or exaction of any kind on groceries or the manufacture, distribution, sale, possession, ownership, transfer, transportation, container, use, or consumption thereof.

(6) "Tobacco" has the same meaning as provided in RCW 82.08.0293.

**Sec. 166.** RCW 84.34.410 and 2014 c 140 s 27 are each amended to read as follows:

The provisions of this chapter do not apply with respect to land used in the growing, raising, or producing of (~~(marijuana)~~ cannabis, useable (~~(marijuana, or marijuana-infused)~~ cannabis, or cannabis-infused products as those terms are defined under RCW 69.50.101.

**Sec. 167.** RCW 84.40.030 and 2014 c 140 s 29 are each amended to read as follows:

(1) All property must be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law.

(2) Taxable leasehold estates must be valued at such price as they would bring at a fair, voluntary sale for cash without any deductions for any indebtedness owed including rentals to be paid.

(3) The true and fair value of real property for taxation purposes (including property upon which there is a coal or other mine, or stone or other quarry) must be based upon the following criteria:

(a) Any sales of the property being appraised or similar properties with respect to sales made within the past five years. The appraisal must be consistent with the comprehensive land use plan, development regulations under chapter 36.70A RCW, zoning, and any other governmental policies or practices in effect at the time of appraisal that affect the use of property, as well as physical and environmental influences. An assessment may not be determined by a method that assumes a land usage or highest and best use not permitted, for that property being appraised, under existing zoning or land use planning ordinances or statutes or other government restrictions. The appraisal must also take into account: (i) In the use of sales by real estate contract as similar sales, the extent, if any, to which the stated selling price has been increased by reason of the down payment, interest rate, or other financing terms; and (ii) the extent to which the sale of a similar property actually represents the general effective market demand for property of such type, in the geographical area in which such property is located. Sales involving deed releases or similar seller-developer financing arrangements may not be used as sales of similar property.

(b) In addition to sales as defined in subsection (3)(a) of this section, consideration may be given to cost, cost less depreciation, reconstruction cost less depreciation, or capitalization of income that would be derived from prudent use of the property, as limited by law or ordinance. Consideration should be given to any agreement, between an owner of rental housing and any government agency, that restricts rental income, appreciation, and liquidity; and to the impact of government restrictions on operating expenses and on ownership rights in general of such housing. In the case of property of a complex nature, or being used under terms of a franchise from a public agency, or operating as a public utility, or property not having a record of sale within five years and not having a significant number of sales of similar property in the general area, the provisions of this subsection must be the dominant factors in valuation. When provisions of this subsection are relied upon for establishing values the property owner must be advised upon request of the factors used in arriving at such value.

(c) In valuing any tract or parcel of real property, the true and fair value of the land, exclusive of structures thereon must be determined; also the true and fair value of structures thereon, but the valuation may not exceed the true and fair value of the total property as it exists. In valuing agricultural land, growing crops must be excluded. For purposes of this subsection (3)(c), "growing crops" does not include (~~marijuana~~) cannabis as defined under RCW 69.50.101.

**NEW SECTION. Sec. 168.** A new section is added to chapter 69.50 RCW to read as follows:

The board must use expedited rule making under RCW 34.05.353 to replace the term "marijuana" with the term "cannabis" throughout Title 314 WAC.

**NEW SECTION. Sec. 169.** A new section is added to chapter 69.50 RCW to read as follows:

The term "marijuana" as used under federal law generally refers to the term "cannabis" used throughout the Revised Code of Washington.

**NEW SECTION. Sec. 170.** Sections 7, 51, and 116 of this act take effect July 1, 2022.

**NEW SECTION. Sec. 171.** Sections 4, 8, 85, and 87 of this act expire July 1, 2023.

**NEW SECTION. Sec. 172.** Sections 5, 9, 86, and 88 of this act take effect July 1, 2023.

**NEW SECTION. Sec. 173.** Sections 64 and 67 of this act expire July 1, 2024.

**NEW SECTION. Sec. 174.** Sections 65 and 68 of this act take effect July 1, 2024.

**NEW SECTION. Sec. 175.** Section 10 of this act expires July 1, 2030.

**NEW SECTION. Sec. 176.** Section 11 of this act takes effect July 1, 2030.

Passed by the House February 2, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

**CHAPTER 17**

[House Bill 1612]

UNEMPLOYMENT INSURANCE—CROSS-REFERENCE CORRECTIONS

AN ACT Relating to making technical cross-reference corrections in statutes governing unemployment insurance; and amending RCW 50.29.025 and 50.29.070.

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

**Sec. 1.** RCW 50.29.025 and 2021 c 2 s 17 are each amended to read as follows:

(1) The contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

Benefit Ratio		Rate Class	Rate (percent)
At least	Less than		
	0.000001	1	0.00
0.000001	0.001250	2	0.11
0.001250	0.002500	3	0.22
0.002500	0.003750	4	0.33
0.003750	0.005000	5	0.43
0.005000	0.006250	6	0.54
0.006250	0.007500	7	0.65
0.007500	0.008750	8	0.76
0.008750	0.010000	9	0.88
0.010000	0.011250	10	1.01
0.011250	0.012500	11	1.14
0.012500	0.013750	12	1.28
0.013750	0.015000	13	1.41
0.015000	0.016250	14	1.54
0.016250	0.017500	15	1.67
0.017500	0.018750	16	1.80
0.018750	0.020000	17	1.94

Benefit Ratio		Rate	Rate
At least	Less than	Class	(percent)
0.020000	0.021250	18	2.07
0.021250	0.022500	19	2.20
0.022500	0.023750	20	2.38
0.023750	0.025000	21	2.50
0.025000	0.026250	22	2.63
0.026250	0.027500	23	2.75
0.027500	0.028750	24	2.88
0.028750	0.030000	25	3.00
0.030000	0.031250	26	3.13
0.031250	0.032500	27	3.25
0.032500	0.033750	28	3.38
0.033750	0.035000	29	3.50
0.035000	0.036250	30	3.63
0.036250	0.037500	31	3.75
0.037500	0.040000	32	4.00
0.040000	0.042500	33	4.25
0.042500	0.045000	34	4.50
0.045000	0.047500	35	4.75
0.047500	0.050000	36	5.00
0.050000	0.052500	37	5.15
0.052500	0.055000	38	5.25
0.055000	0.057500	39	5.30
0.057500		40	5.40

(b) The graduated social cost factor rate shall be determined as follows:

(i)(A) Except as provided in (b)(i)(B) and (C) of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B)(I) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months



and dividing the result by the total taxable payroll. However, the calculation under this subsection (1)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year. For rate year 2011 and thereafter, the calculation may not result in a flat social cost factor that is more than one and twenty-two one-hundredths percent except for rate year 2021 the calculation may not result in a flat social cost factor that is more than five-tenths percent, for rate year 2022 the calculation may not result in a flat social cost factor that is more than seventy-five one-hundredths percent, for rate year 2023 the calculation may not result in a flat social cost factor that is more than eight-tenths percent, for rate year 2024 the calculation may not result in a flat social cost factor that is more than eighty-five one-hundredths percent, and for rate year 2025 the calculation may not result in a flat social cost factor that is more than nine-tenths percent.

(II) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide ten months of unemployment benefits or less, the flat social cost factor for the rate year immediately following the cut-off date may not increase by more than fifty percent over the previous rate year or may not exceed one and twenty-two one-hundredths percent, whichever is greater.

(III) For the purposes of this subsection (1)(b), the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive completed calendar years immediately preceding the cut-off date or a period of consecutive calendar years immediately preceding the cut-off date that includes three recessions, if longer.

(C) The minimum flat social cost factor calculated under this subsection (1)(b) shall be six-tenths of one percent, except that if the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide:

(I) At least ten months but less than eleven months of unemployment benefits, the minimum shall be five-tenths of one percent; or

(II) At least eleven months but less than twelve months of unemployment benefits, the minimum shall be forty-five hundredths of one percent; or

(III) At least twelve months but less than thirteen months of unemployment benefits, the minimum shall be four-tenths of one percent; or

(IV) At least thirteen months but less than fifteen months of unemployment benefits, the minimum shall be thirty-five hundredths of one percent; or

(V) At least fifteen months but less than seventeen months of unemployment benefits, the minimum shall be twenty-five hundredths of one percent; or

(VI) At least seventeen months but less than eighteen months of unemployment benefits, the minimum shall be fifteen hundredths of one percent; or

(VII) At least eighteen months of unemployment benefits, the minimum shall be fifteen hundredths of one percent through rate year 2011 and shall be zero thereafter.

(ii) The graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(i) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed five and four-tenths percent:

- (A) Rate class 1 - 40 percent;
- (B) Rate class 2 - 44 percent;
- (C) Rate class 3 - 48 percent;
- (D) Rate class 4 - 52 percent;
- (E) Rate class 5 - 56 percent;
- (F) Rate class 6 - 60 percent;
- (G) Rate class 7 - 64 percent;
- (H) Rate class 8 - 68 percent;
- (I) Rate class 9 - 72 percent;
- (J) Rate class 10 - 76 percent;
- (K) Rate class 11 - 80 percent;
- (L) Rate class 12 - 84 percent;
- (M) Rate class 13 - 88 percent;
- (N) Rate class 14 - 92 percent;
- (O) Rate class 15 - 96 percent;
- (P) Rate class 16 - 100 percent;
- (Q) Rate class 17 - 104 percent;
- (R) Rate class 18 - 108 percent;
- (S) Rate class 19 - 112 percent;
- (T) Rate class 20 - 116 percent; and
- (U) Rate classes 21 through 40 - 120 percent.

(iii) For the purposes of this section:

(A) "Total social cost" means the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters.

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) For employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due:

(i)(A) For an employer who does not enter into an approved agency-deferred payment contract as described in (c)(i)(B) or (C) of this subsection, the array calculation factor rate shall be the rate it would have been if the employer had not been delinquent in payment plus an additional one percent or, if the employer is delinquent in payment for a second or more consecutive year, an additional two percent;

(B) For an employer who enters an approved agency-deferred payment contract by September 30th of the previous rate year, the array calculation factor rate shall be the rate it would have been if the employer had not been delinquent in payment;

(C) For an employer who enters an approved agency-deferred payment contract after September 30th of the previous rate year, but within thirty days of the date the department sent its first tax rate notice, the array calculation factor rate shall be the rate it would have been had the employer not been delinquent in payment plus an additional one-half of one percent or, if the employer is delinquent in payment for a second or more consecutive year, an additional one and one-half percent;

(D) For an employer who enters an approved agency-deferred payment contract as described in (c)(i)(B) or (C) of this subsection, but who fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the array calculation factor rate shall immediately revert to the applicable array calculation factor rate under (c)(i)(A) of this subsection; and

(i) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii)(~~(A)~~) of this subsection.

(d) For all other employers not qualified to be in the array:

(i) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, multiplied by the history factor, but not less than one percent or more than the array calculation factor rate in rate class 40;

(ii) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, multiplied by the history factor, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection; and

(iii) The history factor shall be based on the total amounts of benefits charged and contributions paid in the three fiscal years ending prior to the computation date by employers not qualified to be in the array, other than employers in (c) of this subsection, who were first subject to contributions in the calendar year ending three years prior to the computation date. The commissioner shall calculate the history ratio by dividing the total amount of benefits charged by the total amount of contributions paid in this three-year period by these employers. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five one-hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The commissioner shall determine the history factor according to the history ratio as follows:

	History Ratio		History Factor (percent)
	At least	Less than	
(A)		.95	90
(B)	.95	1.05	100
(C)	1.05		115

(2) Assignment of employers by the commissioner to industrial classification, for purposes of this section, shall be in accordance with established classification practices found in the North American industry classification system code.

**Sec. 2.** RCW 50.29.070 and 2003 2nd sp.s. c 4 s 19 are each amended to read as follows:

(1) Within a reasonable time after the computation date each employer shall be notified of the employer's rate of contribution as determined for the succeeding rate year and factors used in the calculation. Beginning with rate year 2005, the notice must include the amount of the contribution rate that is attributable to each component of the rate under RCW 50.29.025(~~((2))~~) (1).

(2) Any employer dissatisfied with the benefit charges made to the employer's account for the twelve-month period immediately preceding the computation date or with his or her determined rate may file a request for review and redetermination with the commissioner within thirty days of the mailing of the notice to the employer, showing the reason for such request. Should such request for review and redetermination be denied, the employer may, within thirty days of the mailing of such notice of denial, file with the appeal tribunal a petition for hearing which shall be heard in the same manner as a petition for denial of refund. The appellate procedure prescribed by this title for further appeal shall apply to all denials of review and redetermination under this section.

Passed by the House February 9, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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**CHAPTER 18**

[House Bill 1613]

PAID FAMILY AND MEDICAL LEAVE AND LONG-TERM SERVICES AND SUPPORTS  
TRUST PROGRAMS—DATA CONFIDENTIALITY

AN ACT Relating to shared reporting responsibilities for both the paid family and medical leave and the long-term services and supports trust programs to clarify that information collected from employer reports shall remain private; amending RCW 50A.25.070 and 50A.25.110; and adding a new section to chapter 50B.04 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 50B.04 RCW to read as follows:

(1) Any information or records concerning an individual or employer obtained by the employment security department for the purposes of collecting and assessing employee premiums under RCW 50B.04.080 and determining qualified individuals under RCW 50B.04.050 will be considered private and confidential in the same manner provided in chapter 50A.25 RCW.

(2) This section does not create a rule of evidence.

**Sec. 2.** RCW 50A.25.070 and 2020 c 125 s 8 are each 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;

(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; ~~((and))~~

(j) To the consolidated technology services agency 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.

(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. 3.** RCW 50A.25.110 and 2019 c 13 s 80 are each amended to read as follows:

The paid family and medical leave program of the department and the long-term services and supports trust administering agencies may disclose information or records deemed private and confidential under this chapter to any private person or organization, and by extension, the agents of any private person or organization, when the disclosure is necessary to permit private contracting parties to assist in the operation, management, and implementation of the program in instances where certain departmental functions may be

delegated to private parties to increase the department's efficiency or quality of service to the public. The private person or organization shall use the information or records solely for the purpose for which the information was disclosed and shall be bound by the same rules of privacy and confidentiality as department employees.

Passed by the House February 9, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 19

[Engrossed Substitute House Bill 1619]

### APPLIANCE EFFICIENCY STANDARDS—VARIOUS PROVISIONS

AN ACT Relating to appliance efficiency standards; amending RCW 19.260.030, 19.260.040, and 19.260.050; reenacting and amending RCW 19.260.020 and 19.260.020; providing an effective date; and providing an expiration date.

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

**Sec. 1.** RCW 19.260.020 and 2019 c 286 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) "Air compressor" means a compressor designed to compress air that has an inlet open to the atmosphere or other source of air and is made up of a compression element (bare compressor), a driver or drivers, mechanical equipment to drive the compressor element, and any ancillary equipment.

(2) "ANSI" means the American national standards institute.

(3) "Bottle-type water dispenser" means a water dispenser that uses a bottle or reservoir as the source of potable water.

(4) "Commercial dishwasher" means a machine designed to clean and sanitize plates, pots, pans, glasses, cups, bowls, utensils, and trays by applying sprays of detergent solution, with or without blasting media granules, and a sanitizing rinse.

(5) "Commercial fryer" means an appliance, including a cooking vessel, in which oil is placed to such a depth that the cooking food is supported by displacement of the cooking fluid rather than by the bottom of the vessel. Heat is delivered to the cooking fluid by means of an immersed electric element of band-wrapped vessel (electric fryers) or by heat transfer from gas burners through either the walls of the fryer or through tubes passing through the cooking fluid (gas fryers).

(6) "Commercial hot food holding cabinet" means a heated, fully enclosed compartment, with one or more solid or partial glass doors, that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. "Commercial hot food holding cabinet" does not include heated glass merchandising cabinets, drawer warmers, or cook and hold appliances.

(7) "Commercial steam cooker" means a device with one or more food-steaming compartments in which the energy in the steam is transferred to the

food by direct contact. Models may include countertop models, wall-mounted models, and floor models mounted on a stand, pedestal, or cabinet-style base.

(8) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

(9) "Compressor" means a machine or apparatus that converts different types of energy into the potential energy of gas pressure for displacement and compression of gaseous media to any higher-pressure values above atmospheric pressure and has a pressure ratio at full-load operating pressure greater than 1.3.

(10) "Cook and hold appliance" means a multiple mode appliance intended for cooking food that may be used to hold the temperature of the food that has been cooked in the same appliance.

(11) "CTA" means the consumer technology association.

(12) "Department" means the department of commerce.

(13) "Drawer warmer" means an appliance that consists of one or more heated drawers and that is designed to hold hot food that has been cooked in a separate appliance at a specified temperature.

(14) "Electric storage water heater" means a consumer product that uses electricity as the energy source to heat domestic potable water, has a nameplate input rating of twelve kilowatts or less, contains nominally forty gallons but no more than one hundred twenty gallons of rated hot water storage volume, and supplies a maximum hot water delivery temperature less than one hundred eighty degrees Fahrenheit.

(15) "General service lamp" has the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22 (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).

(16) "Heated glass merchandising cabinet" means an appliance with a heated cabinet constructed of glass or clear plastic doors which, with seventy percent or more clear area, is designed to display and maintain the temperature of hot food that has been cooked in a separate appliance.

(17) "High color rendering index fluorescent lamp" or "high CRI fluorescent lamp" means a fluorescent lamp with a color rendering index of eighty-seven or greater that is not a compact fluorescent lamp.

(18) "Hot water dispenser" means a small electric water heater that has a measured storage volume of no greater than one gallon.

(19) "Mini-tank electric water heater" means a small electric water heater that has a measured storage volume of more than one gallon and a rated storage volume of less than twenty gallons.

(20) "Point-of-use water dispenser" means a water dispenser that uses a pressurized water utility connection as the source of potable water.

(21) "Portable air conditioner" means a portable encased assembly, other than a packaged terminal air conditioner, room air conditioner, or dehumidifier, that delivers cooled, conditioned air to an enclosed space, and is powered by single-phase electric current. It includes a source of refrigeration and may include additional means for air circulation and heating and may be a single-duct or a dual-duct portable air conditioner.

(22) "Portable electric spa" means a factory-built electric spa or hot tub, which may or may not include any combination of integral controls, water heating, or water circulating equipment.

(23) "Pressure regulator" means a device that maintains constant operating pressure immediately downstream from the device, given higher pressure upstream.

~~(24) ("Residential pool pump" means a pump used to circulate and filter pool water in order to maintain clarity and sanitation.~~

~~(25))~~ (25) "Residential ventilating fan" means a ceiling, wall-mounted, or remotely mounted in-line fan designed to be used in a bathroom or utility room whose purpose is to move objectionable air from inside the building to the outdoors.

~~((26))~~ (26) "Signage display" means an analog or digital device designed primarily for the display for computer-generated signals that is not marketed for use as a computer monitor or a television.

~~((27))~~ (27) "Spray sprinkler body" means the exterior case or shell of a sprinkler incorporating a means of connection to the piping system designed to convey water to a nozzle or orifice.

~~((28) "Uninterruptible power supply" means a battery charger consisting of a number of converters, switches, and energy storage devices such as batteries, constituting a power system for maintaining continuity of load power in case of input power failure.~~

~~(29))~~ (29) "Water cooler" means a freestanding device that consumes energy to cool or heat potable water, including cold only units, hot and cold units, cook and cold units, storage-type units, and on-demand units.

(28) "Air purifier," also known as "room air cleaner," means an electric, cord-connected, portable appliance with the primary function of removing particulate matter from the air and that can be moved from room to room.

(29) "Commercial oven" means a chamber designed for heating, roasting, or baking food by conduction, convection, radiation, or electromagnetic energy, or any combination thereof.

(30)(a) "Electric vehicle supply equipment" means the conductors, including the ungrounded, grounded, and equipment grounding conductors, the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatuses installed specifically for the purpose of delivering energy from the premises wiring to the electric vehicle.

(b) "Electric vehicle supply equipment" does not include the conductors, connectors, and fittings that are part of a vehicle, and does not include charging cords with NEMA 5-15P or NEMA 5-20P attachment plugs.

(31) "Industrial air purifier" means an indoor air cleaning device manufactured, advertised, marketed, labeled, and used solely for industrial use that is marketed solely through industrial supply outlets or businesses and prominently labeled as "Solely for industrial use. Potential health hazard: Emits ozone".

**Sec. 2.** RCW 19.260.020 and 2019 c 286 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) "Air compressor" means a compressor designed to compress air that has an inlet open to the atmosphere or other source of air and is made up of a compression element (bare compressor), a driver or drivers, mechanical equipment to drive the compressor element, and any ancillary equipment.



(2) "ANSI" means the American national standards institute.

(3) "Bottle-type water dispenser" means a water dispenser that uses a bottle or reservoir as the source of potable water.

(4) "Commercial dishwasher" means a machine designed to clean and sanitize plates, pots, pans, glasses, cups, bowls, utensils, and trays by applying sprays of detergent solution, with or without blasting media granules, and a sanitizing rinse.

(5) "Commercial fryer" means an appliance, including a cooking vessel, in which oil is placed to such a depth that the cooking food is supported by displacement of the cooking fluid rather than by the bottom of the vessel. Heat is delivered to the cooking fluid by means of an immersed electric element of band-wrapped vessel (electric fryers) or by heat transfer from gas burners through either the walls of the fryer or through tubes passing through the cooking fluid (gas fryers).

(6) "Commercial hot food holding cabinet" means a heated, fully enclosed compartment, with one or more solid or partial glass doors, that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. "Commercial hot food holding cabinet" does not include heated glass merchandising cabinets, drawer warmers, or cook and hold appliances.

(7) "Commercial steam cooker" means a device with one or more food-steaming compartments in which the energy in the steam is transferred to the food by direct contact. Models may include countertop models, wall-mounted models, and floor models mounted on a stand, pedestal, or cabinet-style base.

(8) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

(9) "Compressor" means a machine or apparatus that converts different types of energy into the potential energy of gas pressure for displacement and compression of gaseous media to any higher-pressure values above atmospheric pressure and has a pressure ratio at full-load operating pressure greater than 1.3.

(10) "Cook and hold appliance" means a multiple mode appliance intended for cooking food that may be used to hold the temperature of the food that has been cooked in the same appliance.

(11) "CTA" means the consumer technology association.

(12) "Department" means the department of commerce.

(13) "Drawer warmer" means an appliance that consists of one or more heated drawers and that is designed to hold hot food that has been cooked in a separate appliance at a specified temperature.

(14) "Electric storage water heater" means a consumer product that uses electricity as the energy source to heat domestic potable water, has a nameplate input rating of twelve kilowatts or less, contains nominally forty gallons but no more than one hundred twenty gallons of rated hot water storage volume, and supplies a maximum hot water delivery temperature less than one hundred eighty degrees Fahrenheit.

(15) "General service lamp" has the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22 (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).

(16) "Heated glass merchandising cabinet" means an appliance with a heated cabinet constructed of glass or clear plastic doors which, with seventy

percent or more clear area, is designed to display and maintain the temperature of hot food that has been cooked in a separate appliance.

(17) "High color rendering index fluorescent lamp" or "high CRI fluorescent lamp" means a fluorescent lamp with a color rendering index of eighty-seven or greater that is not a compact fluorescent lamp.

(18) "Hot water dispenser" means a small electric water heater that has a measured storage volume of no greater than one gallon.

(19) "Mini-tank electric water heater" means a small electric water heater that has a measured storage volume of more than one gallon and a rated storage volume of less than twenty gallons.

(20) "Point-of-use water dispenser" means a water dispenser that uses a pressurized water utility connection as the source of potable water.

(21) "Portable air conditioner" means a portable encased assembly, other than a packaged terminal air conditioner, room air conditioner, or dehumidifier, that delivers cooled, conditioned air to an enclosed space, and is powered by single-phase electric current. It includes a source of refrigeration and may include additional means for air circulation and heating and may be a single-duct or a dual-duct portable air conditioner.

(22) "Portable electric spa" means a factory-built electric spa or hot tub, which may or may not include any combination of integral controls, water heating, or water circulating equipment.

(23) "Pressure regulator" means a device that maintains constant operating pressure immediately downstream from the device, given higher pressure upstream.

~~(24) ("Residential pool pump" means a pump used to circulate and filter pool water in order to maintain clarity and sanitation.~~

~~(25))~~ (a) "Residential ventilating fan" means a (ceiling, wall-mounted, or remotely mounted in-line) fan ((designed to be used in a bathroom or utility room)) whose purpose is to ((move objectionable air from inside the building to the outdoors)) actively supply air to or remove air from the inside of a residence. A "residential ventilating fan" may also be designed to filter incoming air. "Residential ventilating fan" includes, but is not limited to: Ceiling and wall-mounted fans, or remotely mounted in-line fans, designed to be used in a bathroom or utility room; and supply fans designed to provide air to the indoor space.

(b) "Residential ventilating fan" does not include kitchen range hoods.

~~((26))~~ (25) "Signage display" means an analog or digital device designed primarily for the display for computer-generated signals that is not marketed for use as a computer monitor or a television.

~~((27))~~ (26) "Spray sprinkler body" means the exterior case or shell of a sprinkler incorporating a means of connection to the piping system designed to convey water to a nozzle or orifice.

~~((28) "Uninterruptible power supply" means a battery charger consisting of a number of converters, switches, and energy storage devices such as batteries, constituting a power system for maintaining continuity of load power in case of input power failure.~~

~~(29))~~ (27) "Water cooler" means a freestanding device that consumes energy to cool or heat potable water, including cold only units, hot and cold units, cook and cold units, storage-type units, and on-demand units.

(28) "Air purifier," also known as "room air cleaner," means an electric, cord-connected, portable appliance with the primary function of removing particulate matter from the air and that can be moved from room to room.

(29) "Commercial oven" means a chamber designed for heating, roasting, or baking food by conduction, convection, radiation, or electromagnetic energy, or any combination thereof.

(30)(a) "Electric vehicle supply equipment" means the conductors, including the ungrounded, grounded, and equipment grounding conductors, the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatuses installed specifically for the purpose of delivering energy from the premises wiring to the electric vehicle.

(b) "Electric vehicle supply equipment" does not include the conductors, connectors, and fittings that are part of a vehicle, and does not include charging cords with NEMA 5-15P or NEMA 5-20P attachment plugs.

(31) "Industrial air purifier" means an indoor air cleaning device manufactured, advertised, marketed, labeled, and used solely for industrial use that is marketed solely through industrial supply outlets or businesses and prominently labeled as "Solely for industrial use. Potential health hazard: Emits ozone".

**Sec. 3.** RCW 19.260.030 and 2019 c 286 s 3 are each amended to read as follows:

(1) This chapter applies to the following types of new products sold, offered for sale, or installed in the state:

- (a) Hot water dispensers and mini-tank electric water heaters;
- (b) Bottle-type water dispensers and point-of-use water dispensers;
- (c) ~~((Residential pool pumps and portable))~~ Portable electric spas;
- (d) Tub spout diverters;
- (e) Commercial hot food holding cabinets;
- (f) Air compressors;
- (g) Commercial fryers, commercial dishwashers, and commercial steam cookers;
- (h) Computers and computer monitors;
- (i) Faucets;
- (j) High CRI fluorescent lamps;
- (k) Portable air conditioners;
- (l) Residential ventilating fans;
- (m) Showerheads;
- (n) Spray sprinkler bodies;
- (o) ~~((Uninterruptible power supplies;~~
- ~~((p)))~~ Urinals and water closets;
- ~~((q)))~~ (p) Water coolers;
- ~~((r)))~~ (q) General service lamps; ~~((and~~
- ~~((s)))~~ (r) Electric storage water heaters;
- (s) Air purifiers other than industrial air purifiers;
- (t) Commercial ovens; and
- (u) Electric vehicle supply equipment.

(2) This chapter applies equally to products whether they are sold, offered for sale, or installed as stand-alone products or as components of other products.

(3) This chapter does not apply to:

- (a) New products manufactured in the state and sold outside the state;
- (b) New products manufactured outside the state and sold at wholesale inside the state for final retail sale and installation outside the state;
- (c) Products installed in mobile manufactured homes at the time of construction; or
- (d) Products designed expressly for installation and use in recreational vehicles.

**Sec. 4.** RCW 19.260.040 and 2019 c 286 s 4 are each amended to read as follows:

Except as provided in subsection (1) of this section, the minimum efficiency standards specified in this section apply to the types of new products set forth in RCW 19.260.030 as of the effective dates set forth in RCW 19.260.050.

(1) The department may adopt by rule a more recent version of any standard or test method established in this section, including any product definition associated with the standard or test method, in order to maintain or improve consistency with other comparable standards in other states.

(2)(a) The standby energy consumption of bottle-type water dispensers, and point-of-use water dispensers, dispensing both hot and cold water, manufactured on or after January 1, 2010, shall not exceed 1.2 kWh/day.

(b) The test method for water dispensers shall be the environmental protection agency energy star program requirements for bottled water coolers version 1.1.

(3)(a) The standby energy consumption of hot water dispensers and mini-tank electric water heaters manufactured on or after January 1, 2010, shall be not greater than 35 watts.

(b) This subsection does not apply to any water heater:

(i) That is within the scope of 42 U.S.C. Sec. 6292(a)(4) or 6311(1);

(ii) That has a rated storage volume of less than 20 gallons; and

(iii) For which there is no federal test method applicable to that type of water heater.

(c) Hot water dispensers shall be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of July 26, 2009.

(d) Mini-tank electric water heaters shall be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of July 26, 2009.

(4) The following standards are established for ~~((residential pool pumps and))~~ portable electric spas:

(a) ~~((Residential pool pumps manufactured on or after January 1, 2010, and until July 18, 2021, must meet requirements specified in the California Code of Regulations, Title 20, section 1605.3 in effect as of July 26, 2009. Beginning July 19, 2021, residential pool pumps must meet requirements specified in the dedicated purpose pool pump rule published by the United States department of energy on January 18, 2017, (82 Fed. Reg. 5650) and effective on May 18, 2017.~~

(b) ~~Through December 31, 2019, portable electric spas manufactured on or after January 1, 2010, must meet requirements specified in the California Code of Regulations, Title 20, section 1605.3 in effect as of July 26, 2009.)~~ Beginning January 1, 2020, portable electric spas must meet the requirements of the American national standard for portable electric spa energy efficiency

(ANSI/APSP/ICC-14 2014). Beginning January 1, 2024, portable electric spas must meet the requirements specified in the California code of regulations, title 20, section 1605.3 in effect as of January 1, 2022.

~~((c) Through December 31, 2019, portable electric spas must be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of July 26, 2009.))~~ (b) Beginning January 1, 2020, portable electric spas must be tested in accordance with the method specified in the American national standard for portable electric spa energy efficiency (ANSI/APSP/ICC-14 2014). Beginning January 1, 2024, portable electric spas must be tested in accordance with the method specified in the California code of regulations, title 20, section 1605.3 in effect as of January 1, 2022.

(5)~~((a) The idle energy rate of commercial hot food holding cabinets manufactured on or after January 1, 2010, shall be no greater than 40 watts per cubic foot of measured interior volume.~~

~~(b) The idle energy rate of commercial hot food holding cabinets shall be determined using ANSI/ASTM F2140-11 standard test method for the performance of hot food holding cabinets (test for idle energy rate dry test). Commercial hot food holding cabinet interior volume shall be calculated using straight line segments following the gross interior dimensions of the appliance and using the following equation: Interior height x interior width x interior depth. Interior volume shall not account for racks, air plenums, or other interior parts.)~~ Commercial hot food holding cabinets must meet the qualification criteria of the energy star program requirements product specification for commercial hot food holding cabinets, version 2.0.

(6) Commercial dishwashers included in the scope of the environmental protection agency energy star program product specification for commercial dishwashers, version 2.0, must meet the qualification criteria of that specification.

(7) Commercial fryers included in the scope of the environmental protection agency energy star program product specification for commercial fryers, version 2.0, must meet the qualification criteria for that specification.

(8) Commercial steam cookers must meet the requirements of the environmental protection agency energy star program product specification for commercial steam cookers, version 1.2.

(9) Computers and computer monitors must meet the requirements in the California Code of Regulations, Title 20, section 1605.3(v) as adopted on May 10, 2017, and amended on November 8, 2017, as measured in accordance with test methods prescribed in section 1604(v) of those regulations.

(10) Air compressors that meet the twelve criteria listed on page 350 to 351 of the "energy conservation standards for air compressors" final rule issued by the United States department of energy on December 5, 2016, must meet the requirements in table 1 on page 352 following the instructions on page 353 and as measured in accordance with the "uniform test method for certain air compressors" under 10 C.F.R. Part 431 (Appendix A to Subpart T) as in effect on July 3, 2017.

(11) High CRI fluorescent lamps must meet the requirements in 10 C.F.R. Sec. 430.32(n)(4) in effect as of January 3, 2017, as measured in accordance

with the test methods prescribed in 10 C.F.R. Sec. 430.23 (appendix R to subpart B of part 430) in effect as of January 3, 2017.

(12) Portable air conditioners must have a combined energy efficiency ratio, as measured in accordance with the test methods prescribed in 10 C.F.R. Sec. 430.23 (appendix CC to subpart B of part 430) in effect as of January 3, 2017, that is greater than or equal to:

$$1.04 \times \frac{SACC}{(3.7117 \times SACC^{0.6384})}$$

where "SACC" is seasonally adjusted cooling capacity in Btu/h.

(13)(a) Residential ventilating fans must meet the qualification criteria of the environmental protection agency energy star program product specification for residential ventilating fans, version 3.2, consistent with the timeline specified in RCW 19.260.050(3).

(b) Residential ventilating fans must meet the qualification criteria of the environmental protection agency energy star program product specification for residential ventilating fans, version 4.1, consistent with the timeline specified in RCW 19.260.050(3).

(14) Spray sprinkler bodies that are not specifically excluded from the scope of the environmental protection agency water sense program product specification for spray sprinkler bodies, version 1.0, must include an integral pressure regulator and must meet the water efficiency and performance criteria and other requirements of that specification.

(15) The following products that are within the scope and definition of the applicable regulation must meet the requirements in the California Code of Regulations, Title 20, section 1605.3 in effect as of January 1, 2018, as measured in accordance with the test methods prescribed in the California Code of Regulations, Title 20, section 1604 in effect as of January 1, 2018:

- (a) Showerheads;
- (b) Tub spout diverters;
- (c) Showerhead tub spout diverter combinations;
- (d) Lavatory faucets and replacement aerators;
- (e) Kitchen faucets and replacement aerators;
- (f) Public lavatory faucets and replacement aerators;
- (g) Urinals; and
- (h) Water closets.

~~(16) ((Uninterruptible power supplies that utilize a NEMA 1-15P or 5-15P input plug and have an AC output must have an average load adjusted efficiency that meets or exceeds the values shown on page 193 of the prepublication final rule "Energy Conservation Program: Energy Conservation Standards for Uninterruptible Power Supplies" issued by the United States department of energy on December 28, 2016, as measured in accordance with test procedures prescribed in Appendix Y to Subpart B of Part 430 of Title 10 of the Code of Federal Regulations "Uniform Test Method for Measuring the Energy Consumption of Battery Chargers" in effect as of January 11, 2017.~~

(17)) Water coolers included in the scope of the environmental protection agency energy star program product specification for water coolers, version 2.0, must have an on mode with no water draw energy consumption less than or

equal to the following values as measured in accordance with the test requirements of that program:

- (a) 0.16 kilowatt-hours per day for cold-only units and cook and cold units;
- (b) 0.87 kilowatt-hours per day for storage type hot and cold units; and
- (c) 0.18 kilowatt-hours per day for on demand hot and cold units.

~~((18))~~ (17) General service lamps must meet or exceed a lamp efficacy of 45 lumens per watt, when tested in accordance with the applicable federal test procedures for general service lamps prescribed in 10 C.F.R. Sec. 430.23 in effect as of January 3, 2017.

(18) Air purifiers other than industrial air purifiers must meet the qualification criteria of the environmental protection agency energy star program product specification for room air cleaners, version 2.0.

(19) Commercial ovens included in the scope of the energy star program requirements product specification for commercial ovens, version 2.2, must meet the qualification criteria of that specification.

(20) Electric vehicle supply equipment included in the scope of the energy star program requirements product specification for electric vehicle supply equipment, version 1.0, other than charging cords with NEMA 5-15P or NEMA 5-20P attachment plugs, must meet the qualification criteria of that specification.

**Sec. 5.** RCW 19.260.050 and 2019 c 286 s 6 are each amended to read as follows:

(1) The following products, if manufactured on or after January 1, 2010, may not be sold or offered in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040:

- (a) Hot water dispensers and mini-tank electric water heaters;
- (b) Bottle-type water dispensers and point-of-use water dispensers;
- (c) ~~((Residential pool pumps and portable))~~ Portable electric spas;
- (d) Tub spout diverters; and
- (e) Commercial hot food holding cabinets.

(2) The following products, if manufactured on or after January 1, 2010, may not be installed for compensation in the state on or after January 1, 2011, unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040:

- (a) Hot water dispensers and mini-tank electric water heaters;
- (b) Bottle-type water dispensers and point-of-use water dispensers;
- (c) ~~((Residential pool pumps and portable))~~ Portable electric spas;
- (d) Tub spout diverters; and
- (e) Commercial hot food holding cabinets.

(3) The following products, if manufactured on or after January 1, 2021, may not be sold or offered for sale, lease, or rent in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040:

- (a) Commercial dishwashers;
- (b) Commercial fryers;
- (c) Commercial steam cookers;
- (d) Computers or computer monitors;
- (e) Faucets;
- (f) Residential ventilating fans that meet the standard specified in RCW 19.260.040(13)(a);

- (g) Spray sprinkler bodies;
- (h) Showerheads;
- (i) ~~((Uninterruptible power supplies;~~
- ~~((j))~~ Urinals and water closets; and
- ~~((k))~~ (j) Water coolers.

(4) The following products, if manufactured on or after January 1, 2024, may not be sold or offered for sale, lease, or rent in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040:

(a) Air purifiers other than industrial air purifiers;

(b) Commercial ovens;

(c) Electric vehicle supply equipment; and

(d) Residential ventilating fans that meet the standard specified in RCW 19.260.040(13)(b).

(5) Standards for the following products expire January 1, 2020:

(a) Hot water dispensers; and

(b) Bottle-type water dispensers and point-of-use water dispensers.

~~((5))~~ (6) A new air compressor manufactured on or after January 1, 2022, may not be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

~~((6))~~ (7) A new portable air conditioner manufactured on or after February 1, 2022, may not be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

~~((7))~~ (8) New general service lamps manufactured on or after January 1, 2020, may not be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

~~((8))~~ (9) No new high CRI fluorescent lamps may be sold or offered for sale in the state after January 1, 2023, unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040. The department may establish by rule an earlier effective date, not before January 1, 2022, if the state of California adopts a comparable standard with an effective date before January 1, 2023.

(10) The department may by rule establish a later effective date or suspend enforcement of any of the requirements of this chapter if the department determines that such a delay or suspension is in the public interest.

NEW SECTION. Sec. 6. Section 1 of this act expires January 1, 2024.

NEW SECTION. Sec. 7. Section 2 of this act takes effect January 1, 2024.

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.

Passed by the House February 10, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.



## CHAPTER 20

[Substitute House Bill 1626]

## FISH AND WILDLIFE COMMISSION—ELECTRONIC LICENSING

AN ACT Relating to updating the authority for the fish and wildlife commission to adopt rules implementing electronic licensing practices; and amending RCW 77.32.090.

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

**Sec. 1.** RCW 77.32.090 and 2000 c 107 s 267 are each amended to read as follows:

The commission may adopt rules pertaining to the form, period of validity, use, possession, and display of licenses, permits, tags, stamps, and raffle tickets required by this chapter. This authority extends to the issuance of electronic licenses, permits, tags, stamps, and catch record cards, as well as their use, possession, display, and presentation to agency staff.

Passed by the House February 11, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 21

[Substitute House Bill 1649]

## ADVISORY COMMITTEE ON HUNTERS AND FISHERS WITH DISABILITIES—VARIOUS PROVISIONS

AN ACT Relating to the advisory committee on hunters and fishers with disabilities; and amending RCW 77.04.150.

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

**Sec. 1.** RCW 77.04.150 and 2008 c 294 s 1 are each amended to read as follows:

(1) The commission must appoint an advisory committee to generally represent the interests of hunters and fishers with disabilities on matters including, but not limited to, special hunts, modified sporting equipment, access to public land, and hunting and fishing opportunities. The advisory committee is composed of seven members, each being an individual with a disability. Two additional members, who have demonstrable experience working with disabled persons in a natural resource environment, may be appointed to the advisory committee. The advisory committee members must represent the entire state. The members must be appointed so that each of the six department administrative regions, as they existed on January 1, 2007, are represented with one resident on the advisory committee. One additional member must be appointed at large. The chair of the advisory committee must be a member of the advisory committee and shall be selected by the members of the advisory committee.

(2) ~~((For the purposes of this section, an individual with a disability includes but is not limited to:~~

~~(a) An individual with a permanent disability who is not ambulatory over natural terrain without a prosthesis or assistive device;~~

~~(b) An individual with a permanent disability who is unable to walk without the use of assistance from a brace, cane, crutch, wheelchair, scooter, walker, or other assistive device;~~

~~(c) An individual who has a cardiac condition to the extent that the individual's functional limitations are severe;~~

~~(d) An individual who is restricted by lung disease to the extent that the individual's functional limitations are severe;~~

~~(e) An individual who is totally blind or visually impaired; or~~

~~(f) An individual with a permanent disability with upper or lower extremity impairments who does not have the use of one or both upper or lower extremities.~~

~~(3))~~ The members of the advisory committee are appointed for a four-year term. If a vacancy occurs on the advisory committee prior to the expiration of a term, the commission must appoint a replacement within sixty days to complete the term.

~~((4))~~ (3) The advisory committee must meet at least semiannually, and may meet at other times as requested by a majority of the advisory committee members for any express purpose that directly relates to the duties set forth in subsection (1) of this section. A majority of members currently serving on the advisory committee constitutes a quorum. The department must provide staff support for all official advisory committee meetings.

~~((5))~~ (4) Each member of the advisory committee shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

~~((6))~~ (5) The members of the advisory committee, or individuals acting on their behalf, are immune from civil liability for official acts performed in the course of their duties.

~~((7) Beginning December 1, 2011, and again at)~~ (6) At least once every ~~((four))~~ two years, by December 1st, the commission shall present a concise report to the appropriate legislative committees detailing the ~~((effectiveness of the advisory committee including, but not limited to, the participation levels, general interest, quality of advice, and recommendations as to the advisory committee's continuance or modification))~~ levels of participation in hunting and fishing by persons with disabilities, and any recommendations to maintain accessibility for persons with disabilities.

Passed by the House February 2, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 22

[House Bill 1669]

### PUBLIC SAFETY EMPLOYEES' RETIREMENT SYSTEM—LINE OF DUTY DISABILITY BENEFIT

AN ACT Relating to disability benefits in the public safety employees' retirement system; and amending RCW 41.37.230.

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

**Sec. 1.** RCW 41.37.230 and 2004 c 242 s 29 are each amended to read as follows:

(1)(a) A member of the retirement system with at least ten years of service in the public safety employees' retirement system who becomes totally incapacitated for continued employment as an employee by an employer, as determined by the department, shall be eligible to receive an allowance under RCW 41.37.190 through 41.37.290. The member shall receive a monthly disability allowance computed as provided for in RCW 41.37.190 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty, except under subsection (3) of this section.

(b) A member of the retirement system with less than ten years of service who becomes totally incapacitated for continued employment by an employer, as determined by the department, shall be eligible to receive an allowance under RCW 41.37.190 through 41.37.290. The member shall receive a monthly disability allowance computed as provided for in RCW 41.37.190 and shall have this allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age sixty-five.

(2) Any member who receives an allowance under this section shall be subject to comprehensive medical examinations as required by the department. If these medical examinations reveal that a member has recovered from the incapacitating disability and the member is offered reemployment by an employer at a comparable compensation, the member shall cease to be eligible for the allowance.

(3)(a) A member who is totally disabled in the line of duty is entitled to receive a retirement allowance equal to 70 percent of the member's final average salary. The allowance provided under this section shall be offset by:

(i) Temporary disability wage-replacement benefits or permanent total disability benefits provided to the member under Title 51 RCW; and

(ii) Federal social security disability benefits, if any;  
so that such an allowance does not result in the member receiving combined benefits that exceed 100 percent of the member's final average salary. However, the offsets shall not in any case reduce the allowance provided under this subsection below the member's accrued retirement allowance.

(b) A member is considered totally disabled if he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least 12 months. Substantial gainful activity is defined as average earnings in excess of \$860 a month in 2006 adjusted annually as determined by the director based on federal social security disability standards. The department may require a person in receipt of an allowance under this subsection to provide any financial records that are necessary to determine continued eligibility for such an allowance. A person in receipt of an allowance under this subsection whose earnings exceed the threshold for substantial gainful activity shall have their benefit converted to a disability retirement allowance as provided in subsection (1) of this section.

(c) Any person in receipt of an allowance under the provisions of this section is subject to comprehensive medical examinations as may be required by the department under subsection (2) of this section in order to determine continued eligibility for such an allowance.

(4) If the recipient of a monthly allowance under this section dies before the total of the allowance payments equal the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization the recipient has nominated by written designation duly executed and filed with the director. If there is no designated person or persons still living at the time of the recipient's death, then to the surviving spouse, or, if there is no designated person or persons still living at the time of his or her death nor a surviving spouse, then to his or her legal representative.

Passed by the House February 9, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 23

[Substitute House Bill 1675]

### HOME DIALYSIS PATIENTS—DIALYSATE AND DIALYSIS DEVICES

AN ACT Relating to exempting a manufacturer of certain dialysate and dialysis devices used by home dialysis patients or a manufacturer's agent from the pharmacy practices act and legend drug act; and amending RCW 18.64.257 and 69.41.032.

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

**Sec. 1.** RCW 18.64.257 and 2013 c 19 s 20 are each amended to read as follows:

(1) This chapter shall not prevent a medicare-approved dialysis center ~~((or)),~~ a facility operating a medicare-approved home dialysis program, a manufacturer, or a wholesaler, from selling, delivering, possessing, or dispensing directly to its dialysis patients, ~~((in case or full shelf lots,))~~ if prescribed by a ~~((physician licensed under chapter 18.57 or 18.71 RCW))~~ practitioner acting within the scope of the practitioner's practice, those dialysis devices and legend drugs, including commercially available dialysate, used by home dialysis patients, in case or full shelf lots, as determined by the commission ~~((pursuant to rule)).~~

(2) The commission shall adopt rules to implement this section.

**Sec. 2.** RCW 69.41.032 and 2016 c 148 s 12 are each amended to read as follows:

(1) This chapter shall not prevent a medicare-approved dialysis center ~~((or)),~~ a facility operating a medicare-approved home dialysis program, a manufacturer, or a wholesaler, from selling, delivering, possessing, or dispensing directly to ~~((its))~~ dialysis patients, ~~((in case or full shelf lots,))~~ if prescribed by a ~~((physician licensed under chapter 18.57 or 18.71 RCW))~~ practitioner acting within the scope of the practitioner's practice, those legend drugs, including commercially available dialysate, used by home dialysis patients, in case or full shelf lots, as determined by the commission ~~((pursuant to rule)).~~

(2) The commission shall adopt rules to implement this section.

Passed by the House January 26, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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**CHAPTER 24**

[House Bill 1755]

**TEMPORARY ASSISTANCE FOR NEEDY FAMILIES—TIME LIMIT—HIGH  
UNEMPLOYMENT**

AN ACT Relating to temporary assistance for needy families time limit extensions during times of high unemployment; and amending RCW 74.08A.010.

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

**Sec. 1.** RCW 74.08A.010 and 2021 c 239 s 1 are each amended to read as follows:

(1) A family that includes an adult who has received temporary assistance for needy families for sixty months after July 27, 1997, shall be ineligible for further temporary assistance for needy families assistance.

(2) For the purposes of applying the rules of this section, the department shall count any month in which an adult family member received a temporary assistance for needy families cash assistance grant unless the assistance was provided when the adult family member was a minor child and not the head of the household or married to the head of the household.

(3) The department shall adopt regulations to apply the sixty-month time limit to households in which a parent is in the home and ineligible for temporary assistance for needy families. Any regulations shall be consistent with federal funding requirements.

(4) The department shall refer recipients who require specialized assistance to appropriate department programs, crime victims' programs through the department of commerce, or the crime victims' compensation program of the department of labor and industries.

(5)(a) The department shall add to adopted rules related to temporary assistance for needy families time limit extensions, the following criteria by which the department shall exempt a recipient and the recipient's family from the application of subsection (1) of this section:

(i) By reason of hardship, including when:

(A) The recipient's family includes a child or youth who is without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter VI, part B) as it existed on January 1, 2020; (~~(B)~~)

(B) The recipient received temporary assistance for needy families during a month on or after March 1, 2020, when Washington state's unemployment rate as published by the Washington employment security department was equal to or greater than seven percent, and the recipient is otherwise eligible for temporary assistance for needy families except that they have exceeded 60 months. The extension provided for under this subsection (5)(a)(i)(B) is equal to the number of months that the recipient received temporary assistance for needy families during a month 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 (5) or in rule; or

(C) 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

(ii) If the family includes an individual who meets the family violence options of section 402(A)(7) of Title IVA of the federal social security act as amended by P.L. 104-193.

(b) Policies related to circumstances under which a recipient will be exempted from the application of subsection (1) or (3) of this section shall treat adults receiving benefits on their own behalf, and parents receiving benefits on behalf of their child similarly, unless required otherwise under federal law.

(6) The department shall not exempt a recipient and his or her family from the application of subsection (1) or (3) of this section until after the recipient has received fifty-two months of assistance under this chapter.

(7) The department shall provide transitional food assistance for a period of five months to a household that ceases to receive temporary assistance for needy families assistance and is not in sanction status. If necessary, the department shall extend the household's basic food certification until the end of the transition period.

(8) The department may adopt rules specifying which published employment security department unemployment rates to use for the purposes of subsection (5)(a)(i)(B) and (C) of this section.

Passed by the House February 12, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 25

[House Bill 1761]

### EMERGENCY DEPARTMENT NURSES—OPIOID OVERDOSE REVERSAL MEDICATION

AN ACT Relating to allowing nurses to dispense opioid overdose reversal medication in the emergency department; amending RCW 70.41.480; and declaring an emergency.

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

**Sec. 1.** RCW 70.41.480 and 2021 c 273 s 2 are each amended to read as follows:

(1) The legislature finds that high quality, safe, and compassionate health care services for patients of Washington state must be available at all times. The legislature further finds that there is a need for patients being released from hospital emergency departments to maintain access to emergency medications when community or hospital pharmacy services are not available, including medication for opioid overdose reversal and for the treatment for opioid use disorder as appropriate. It is the intent of the legislature to accomplish this objective by allowing practitioners with prescriptive authority to prescribe limited amounts of prepackaged emergency medications to patients being discharged from hospital emergency departments when access to community or outpatient hospital pharmacy services is not otherwise available.

(2) A hospital may allow a practitioner to prescribe prepackaged emergency medications and allow a practitioner or a registered nurse licensed under chapter

18.79 RCW to distribute prepackaged emergency medications to patients being discharged from a hospital emergency department in the following circumstances:

(a) During times when community or outpatient hospital pharmacy services are not available within (~~(fifteen)) 15~~ miles by road; or

(b) When, in the judgment of the practitioner and consistent with hospital policies and procedures, a patient has no reasonable ability to reach the local community or outpatient pharmacy.

(3) A hospital may only allow this practice if: The director of the hospital pharmacy, in collaboration with appropriate hospital medical staff, develops policies and procedures regarding the following:

(a) Development of a list, preapproved by the pharmacy director, of the types of emergency medications to be prepackaged and distributed;

(b) Assurances that emergency medications to be prepackaged pursuant to this section are prepared by a pharmacist or under the supervision of a pharmacist licensed under chapter 18.64 RCW;

(c) Development of specific criteria under which emergency prepackaged medications may be prescribed and distributed consistent with the limitations of this section;

(d) Assurances that any practitioner authorized to prescribe prepackaged emergency medication or any nurse authorized to distribute prepackaged emergency medication is trained on the types of medications available and the circumstances under which they may be distributed;

(e) Procedures to require practitioners intending to prescribe prepackaged emergency medications pursuant to this section to maintain a valid prescription either in writing or electronically in the patient's records prior to a medication being distributed to a patient;

(f) Establishment of a limit of no more than a (~~(forty-eight)) 48~~ hour supply of emergency medication as the maximum to be dispensed to a patient, except when community or hospital pharmacy services will not be available within (~~(forty-eight)) 48~~ hours. In no case may the policy allow a supply exceeding (~~(ninety-six)) 96~~ hours be dispensed;

(g) Assurances that prepackaged emergency medications will be kept in a secure location in or near the emergency department in such a manner as to preclude the necessity for entry into the pharmacy; and

(h) Assurances that nurses or practitioners will distribute prepackaged emergency medications to patients only after a practitioner has counseled the patient on the medication.

(4) The delivery of a single dose of medication for immediate administration to the patient is not subject to the requirements of this section.

(5) Nothing in this section restricts the authority of a practitioner in a hospital emergency department to distribute opioid overdose reversal medication under RCW 69.41.095.

(6) A practitioner or a nurse in a hospital emergency department must dispense or distribute opioid overdose reversal medication in compliance with RCW 70.41.485.

(7) For purposes of this section:

(a) "Emergency medication" means any medication commonly prescribed to emergency department patients, including those drugs, substances or immediate

precursors listed in schedules II through V of the uniform controlled substances act, chapter 69.50 RCW, as now or hereafter amended.

(b) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(c) "Opioid overdose reversal medication" has the same meaning as provided in RCW 69.41.095.

(d) "Practitioner" means any person duly authorized by law or rule in the state of Washington to prescribe drugs as defined in RCW 18.64.011(29).

(e) "Nurse" means a registered nurse or licensed practical nurse as defined in chapter 18.79 RCW (~~(18.79.020)~~).

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 House January 28, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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**CHAPTER 26**

[House Bill 1769]

COMMUNITY MUNICIPAL CORPORATIONS—VARIOUS PROVISIONS

AN ACT Relating to community municipal corporations; amending RCW 35.14.060, 35.13.015, 35.13.020, 35.13.030, 35.13.080, 35.13.090, 35.13.100, and 35.13.110; repealing RCW 35.14.020, 35.14.030, 35.14.040, 35.14.050, 35.14.060, 35A.14.025, 35.14.010, and 35.10.540; and providing an effective date.

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

**Sec. 1.** RCW 35.14.060 and 2009 c 549 s 2013 are each amended to read as follows:

The ~~((original))~~ terms of existence of any community municipal corporation shall be for ~~((at least))~~ four years ~~((and until the first Monday in January next following a regular municipal election held in the city))~~ or until 30 days after the effective date of this section, whichever is sooner.

~~((Any such community municipal corporation may be continued thereafter for additional periods of four years' duration with the approval of the voters at an election held and conducted in the manner provided for in this section.~~

~~Authorization for a community municipal corporation to continue its term of existence for each additional period of four years may be initiated pursuant to a resolution or a petition in the following manner:~~

~~(1) A resolution praying for such continuation may be adopted by the community council and shall be filed not less than seven months prior to the end of the term of existence of such corporation with the city council or other legislative body of the city in which the service area is located.~~

~~(2) A petition for continuation shall be signed by at least ten percent of the registered voters residing within the service area and shall be filed not less than six months prior to the end of the term of existence of such corporation with the city council or other legislative body of the city in which the service area is located.~~



~~At the same election at which a proposition is submitted to the voters of the service area for the continuation of the community municipal corporation for an additional period of four years, the community councilmembers of such municipal corporation shall be elected. The positions on such council shall be the same in number as the original or initial council and shall be numbered consecutively and elected at large. Declarations of candidacy and withdrawals shall be in the same manner as is provided for members of the city council or other legislative body of the city.~~

~~Upon receipt of a petition, the city clerk shall examine the signatures thereon and certify to the sufficiency thereof. No person may withdraw his or her name from a petition after it has been filed.~~

~~Upon receipt of a valid resolution or upon duly certifying a petition for continuation of a community municipal corporation, the city clerk with whom the resolution or petition was filed shall cause a proposition on continuation of the term of existence of the community municipal corporation to be placed on the ballot at the next city general election. No person shall be eligible to vote on such proposition at such election unless he or she is a qualified voter and resident of the service area.~~

~~The ballots shall contain the words "For continuation of community municipal corporation" and "Against continuation of community municipal corporation" or words equivalent thereto, and shall also contain the names of the candidates to be voted for to fill the positions on the community council. The names of all candidates to be voted upon shall be printed on the ballot alphabetically in groups under the numbered position on the council for which they are candidates.~~

~~If the results of the election as certified by the county canvassing board reveal that a majority of the votes cast are for continuation, the municipal corporation shall continue in existence for an additional period of four years, and certificates of election shall be issued to the successful candidates who shall assume office at the same time as members of the city council or other legislative body of the city.)~~

**Sec. 2.** RCW 35.13.015 and 1975 1st ex.s. c 220 s 6 are each amended to read as follows:

In addition to the method prescribed by RCW 35.13.020 for the commencement of annexation proceedings, the legislative body of any city or town may, whenever it shall determine by resolution that the best interests and general welfare of such city or town would be served by the annexation of unincorporated territory contiguous to such city or town, file a certified copy of the resolution with the board of county commissioners of the county in which said territory is located. The resolution of the city or town initiating such election shall, subject to RCW 35.02.170, describe the boundaries of the area to be annexed, as nearly as may be state the number of voters residing therein, pray for the calling of an election to be held among the qualified voters therein upon the question of annexation, and provide that said city or town will pay the cost of the annexation election. The resolution may require that there also be submitted to the electorate of the territory sought to be annexed a proposition that all property within the area annexed shall, upon annexation, be assessed and taxed at the same rate and on the same basis as the property of such annexing city or town is assessed and taxed to pay for all or any portion of the then outstanding

indebtedness of the city or town to which said area is annexed, approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation. Whenever a city or town has prepared and filed a comprehensive plan for the area to be annexed as provided for in RCW 35.13.177 and 35.13.178, the resolution initiating the election may also provide for the simultaneous adoption of the comprehensive plan upon approval of annexation by the electorate of the area to be annexed. ~~((The resolution initiating the election may also provide for the simultaneous creation of a community municipal corporation and election of community councilmembers as provided for in RCW 35.14.010 through 35.14.060 upon approval of annexation by the electorate of the area to be annexed. In cities under the optional municipal code the resolution initiating the election may also provide for the simultaneous inclusion of the annexed area into a named existing community municipal corporation. The proposition for the creation of a community municipal corporation may be submitted as part of the annexation proposition or may be submitted as a separate proposition. The proposition for inclusion within a named existing community municipal corporation shall be submitted as part of the annexation proposition.))~~

**Sec. 3.** RCW 35.13.020 and 1981 c 332 s 3 are each amended to read as follows:

A petition for an election to vote upon the annexation of a portion of a county to a contiguous city or town signed by qualified voters resident in the area equal in number to twenty percent of the votes cast at the last election may be filed in the office of the board of county commissioners ~~((PROVIDED, That any such petition shall first be submitted to the prosecuting attorney who shall, within twenty one days after submission, certify or refuse to certify the petition as set forth in RCW 35.13.025. If the prosecuting attorney certifies the petition, it)).~~ The petition shall be filed with the legislative body of the city or town to which the annexation is proposed, and such legislative body shall, by resolution entered within sixty days from the date of presentation, notify the petitioners, either by mail or by publication in the same manner notice of hearing is required by RCW 35.13.040 to be published, of its approval or rejection of the proposed action. ~~((The petition may also provide for the simultaneous creation of a community municipal corporation and election of community councilmembers as provided for in RCW 35.14.010 through 35.14.060.))~~ In approving the proposed action, the legislative body may require that there also be submitted to the electorate of the territory to be annexed, a proposition that all property within the area to be annexed shall, upon annexation be assessed and taxed at the same rate and on the same basis as the property of such annexing city or town is assessed and taxed to pay for all or any portion of the then outstanding indebtedness of the city or town to which said area is annexed, approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation. Only after the legislative body has completed preparation and filing of a comprehensive plan for the area to be annexed as provided for in RCW 35.13.177 and 35.13.178, the legislative body in approving the proposed action, may require that the comprehensive plan be simultaneously adopted upon approval of annexation by the electorate of the area to be annexed. The approval of the legislative body shall be a condition precedent to the filing of such petition with the board of county commissioners as hereinafter provided. The costs of conducting such election shall be a charge against the city or town concerned.

The proposition or questions provided for in this section may be submitted to the voters either separately or as a single proposition.

**Sec. 4.** RCW 35.13.030 and 1975 1st ex.s. c 220 s 7 are each amended to read as follows:

A petition filed with the county commissioners to call an annexation election shall, subject to RCW 35.02.170, particularly describe the boundaries of the area proposed to be annexed, state the number of voters residing therein as nearly as may be, state the provisions, if any there be, relating to assumption of debt by the owners of property of the area proposed to be annexed, and/or the simultaneous adoption of a comprehensive plan for the area proposed to be annexed, and shall pray for the calling of an election to be held among the qualified voters therein upon the question of annexation. ~~((If the petition also provides for the creation of a community municipal corporation and election of community councilmembers, the petition shall also describe the boundaries of the proposed service area, state the number of voters residing therein as nearly as may be, and pray for the election of community councilmembers by the qualified voters residing in the service area.))~~

**Sec. 5.** RCW 35.13.080 and 2015 c 53 s 25 are each amended to read as follows:

Notice of an annexation election shall particularly describe the boundaries of the area proposed to be annexed, ~~((describe the boundaries of the proposed service area if the simultaneous creation of a community municipal corporation is provided for,))~~ state the objects of the election as prayed in the petition or as stated in the resolution and require the voters to cast ballots which shall contain the words "For annexation" and "Against annexation" or words equivalent thereto, or contain the words "For annexation and adoption of comprehensive plan" and "Against annexation and adoption of comprehensive plan" or words equivalent thereto in case the simultaneous adoption of a comprehensive plan is proposed, ~~((and, if appropriate, the words "For creation of community municipal corporation" and "Against creation of community municipal corporation" or words equivalent thereto, or contain the words "For annexation and creation of community municipal corporation" and "Against annexation and creation of community municipal corporation" or words equivalent thereto in case the simultaneous creation of a community municipal corporation is proposed,))~~ and which in case the assumption of indebtedness is proposed, shall contain as a separate proposition, the words "For assumption of indebtedness" and "Against assumption of indebtedness" or words equivalent thereto and if only a portion of the indebtedness of the annexing city or town is to be assumed, an appropriate separate proposition for and against the assumption of such portion of the indebtedness shall be submitted to the voters. ~~((If the creation of a community municipal corporation and election of community councilmembers is provided for, the notice shall also require the voters within the service area to cast ballots for candidates for positions on such council.))~~ The notice shall be posted for at least two weeks prior to the date of election in four public places within the area proposed to be annexed and published in accordance with the notice required by RCW 29A.52.355 prior to the date of election in a newspaper of general circulation in the area proposed to be annexed.

**Sec. 6.** RCW 35.13.090 and 2015 c 53 s 26 are each amended to read as follows:

(1) The proposition for or against annexation or for or against annexation and adoption of the comprehensive plan(~~(, or for or against creation of a community municipal corporation, or any combination thereof, as the case may be,))~~) shall be deemed approved if a majority of the votes cast on that proposition are cast in favor of annexation or in favor of annexation and adoption of the comprehensive plan(~~(, or for creation of the community municipal corporation, or any combination thereof, as the case may be))~~).

(2) If a proposition for or against assumption of all or any portion of indebtedness was submitted to the registered voters, it shall be deemed approved if a majority of at least three-fifths of the registered voters of the territory proposed to be annexed voting on such proposition vote in favor thereof, and the number of registered voters voting on such proposition constitutes not less than forty percent of the total number of votes cast in such territory at the last preceding general election.

(3) If either or both propositions were approved by the registered voters, the county auditor shall on completion of the canvassing of the returns transmit to the county legislative authority and to the clerk of the city or town to which annexation is proposed a certificate of the election results, together with a certified abstract of the vote showing the whole number who voted at the election, and the number of votes cast for annexation and the number cast against annexation or for annexation and adoption of the comprehensive plan and the number cast against annexation and adoption of the comprehensive plan (~~(or for creation of a community municipal corporation and the number cast against creation of a community municipal corporation, or any combination thereof, as the case may be))~~).

(4) If a proposition for assumption of all or of any portion of indebtedness was submitted to the registered voters, the abstract shall include the number of votes cast for assumption of indebtedness and the number of votes cast against assumption of indebtedness, together with a statement of the total number of votes cast in such territory at the last preceding general election.

~~((5) If the proposition for creation of a community municipal corporation was submitted and approved, the abstract shall include the number of votes cast for the candidates for community council positions and certificates of election shall be issued pursuant to RCW 29A.52.360 to the successful candidates who shall assume office as soon as qualified.))~~

**Sec. 7.** RCW 35.13.100 and 1996 c 286 s 2 are each amended to read as follows:

If a proposition relating to annexation or annexation and adoption of the comprehensive plan (~~(or creation of a community municipal corporation, or both, as the case may be)~~) was submitted to the voters and such proposition was approved, the legislative body shall adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the comprehensive plan(~~(, or adopt an ordinance providing for the annexation and creation of a community municipal corporation, as the case may be)~~). If a proposition for annexation or annexation and adoption of the comprehensive plan (~~(or creation of a community municipal corporation, as the case may be,))~~) and a proposition for assumption of all or of any portion of indebtedness were

both submitted, and were approved, the legislative body shall adopt an ordinance providing for the annexation or annexation and adoption of the comprehensive plan (~~(or annexation and creation of a community municipal corporation)~~) including the assumption of all or of any portion of indebtedness. If the propositions were submitted and only the annexation or annexation and adoption of the comprehensive plan (~~(or annexation and creation of a community municipal corporation)~~) proposition was approved, the legislative body may, if it deems it wise or expedient, adopt an ordinance providing for the annexation or adopt ordinances providing for the annexation and adoption of the comprehensive plan(~~(, or adopt ordinances providing for the annexation and creation of a community municipal corporation, as the case may be)~~).

**Sec. 8.** RCW 35.13.110 and 1973 1st ex.s. c 164 s 10 are each amended to read as follows:

Upon the date fixed in the ordinance of annexation, the area annexed shall become a part of the city or town. Upon the date fixed in the ordinances of annexation and adoption of the comprehensive plan, the area annexed shall become a part of the city or town and property in the annexed area shall be subject to and a part of the comprehensive plan, as prepared and filed as provided for in RCW 35.13.177 and 35.13.178. (~~Upon the date fixed in the ordinances of annexation and creation of a community municipal corporation, the area annexed shall become a part of the city or town, the community municipal corporation shall be deemed organized, and property in the service area shall be deemed subject to the powers granted to such corporation as provided for in this 1967 amendatory act.~~) All property within the territory hereafter annexed shall, if the proposition approved by the people so provides after June 12, 1957, be assessed and taxed at the same rate and on the same basis as the property of such annexing city is assessed and taxed to pay for all or any portion of the then outstanding indebtedness of the city or town to which said area is annexed, approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation.

NEW SECTION. **Sec. 9.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective January 1, 2023:

(1) RCW 35.14.020 (Community council—Membership—Election—Terms) and 1985 c 281 s 25 & 1967 c 73 s 2;

(2) RCW 35.14.030 (Community council—Employees—Office—Officers—Quorum—Meetings—Compensation and expenses) and 2009 c 549 s 2012 & 1967 c 73 s 3;

(3) RCW 35.14.040 (Ordinances or resolutions of city applying to land, buildings or structures within corporation, effectiveness—Zoning ordinances, resolutions or land use controls to remain in effect upon annexation or consolidation—Comprehensive plan) and 1967 c 73 s 4;

(4) RCW 35.14.050 (Powers and duties of community municipal corporation) and 1967 c 73 s 5; and

(5) RCW 35.14.060 (Original term of existence of community municipal corporation—Continuation of existence—Procedure) and 2009 c 549 s 2013 & 1967 c 73 s 6.

NEW SECTION. **Sec. 10.** The following acts or parts of acts are each repealed:

(1) RCW 35A.14.025 (Election method—Creation of community municipal corporation) and 1993 c 75 s 3;

(2) RCW 35.14.010 (When community municipal corporation may be organized—Service areas—Territory) and 1993 c 75 s 1, 1985 c 281 s 24, & 1967 c 73 s 1; and

(3) RCW 35.10.540 (Consolidation—Creation of community municipal corporation) and 1993 c 75 s 2.

Passed by the House February 12, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 27

[Engrossed Substitute House Bill 1793]

### COMMON INTEREST COMMUNITIES—ELECTRIC VEHICLE CHARGING STATIONS

AN ACT Relating to electric vehicle charging stations in common interest communities; amending RCW 64.34.425 and 64.90.640; 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 prescribing penalties.

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 an electric vehicle charging station in compliance with the requirements of this section and for the personal noncommercial use of an apartment owner in a designated parking space; or

(ii) Is in conflict with the provisions of this section.

(b) Nothing in this section prohibits an association from imposing reasonable restrictions on electric vehicle charging stations. However, it is the policy of the state to promote, encourage, and remove obstacles to the use of electric vehicle charging stations.

(2) An association of apartment owners may require an apartment owner to submit an application for approval for the installation of an electric vehicle charging station before installing the charging station.

(3)(a) If approval is required for the installation or use of an electric vehicle charging station, 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 placement of an electric vehicle charging station. An association may charge a reasonable fee for processing the application to

approve the installation of an electric vehicle charging station, but only if such a fee exists for all applications for approval of architectural modifications.

(4) If approval is required for the installation or use of an electric vehicle charging station, an association of apartment owners must approve the installation in a designated parking space 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 electric vehicle charging station;

(b) Engage an electrical contractor familiar with the standards for the installation of electric vehicle infrastructure to assess the existing infrastructure necessary to support the proposed electric vehicle charging station, identify additional infrastructure needs, and install the electric vehicle charging station;

(c)(i) Provide, within the time specified in (c)(ii) of this subsection, a certificate of insurance naming the association as an additional insured on the apartment owner's insurance policy for any claim related to the installation, maintenance, or use of the electric vehicle charging station, or, reimbursement to the association for the actual cost of any increased insurance premium amount attributable to the charging station;

(ii) A certificate of insurance required under (c)(i) of this subsection must be provided within 14 days after the association approves the installation of the electric vehicle charging station. Reimbursement for an increased insurance premium amount under (c)(i) of this subsection must be provided within 14 days after the apartment owner receives the association's invoice for the amount attributable to the charging station;

(d) Register the electric vehicle charging station with the association within 30 days after installation;

(e) Pay for the electricity usage associated with the electric vehicle charging station and the required means to facilitate payment for the electricity; and

(f) Comply with the requirements of this section.

(5)(a) An apartment owner must obtain any permit or approval for an electric vehicle charging station 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) An electric vehicle charging station 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 an electric vehicle charging station.

(b) Electric vehicle charging station 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. Nothing in this subsection requires the association to purchase the electric vehicle charging station.

(7) An apartment owner must disclose to any prospective buyers of the unit:

(a) The existence of an electric vehicle charging station and the related responsibilities of the owner under this section; and

(b) Whether the electric vehicle charging station is removable and whether the owner intends to remove the charging station.

(8) The owner and each successive owner of an electric vehicle charging station is responsible for:

(a) Costs for the maintenance, repair, and replacement of the electric vehicle charging station up until the station is removed;

(b) Costs for damage to the electric vehicle charging station, any apartment, common area, or limited common area resulting from the installation, use, maintenance, repair, removal, or replacement of the electric vehicle charging station;

(c) The cost of electricity associated with the electric vehicle charging station;

(d) Obtaining and maintaining an insurance policy that meets the requirements in subsection (4)(c) of this section;

(e) If the owner decides to remove the electric vehicle charging station, costs for the removal and the restoration of the common area or limited common area after the removal; and

(f) Removing the electric vehicle charging station if reasonably necessary for the repair, maintenance, or replacement of the common area or limited common area.

(9) An association of apartment owners may install an electric vehicle charging station in the common areas for the use of all apartment owners and, in that case, the association must develop appropriate terms of use for the charging station.

(10)(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 an electric vehicle charging station installed and seeking to enforce compliance with this section, the court shall award reasonable attorneys' fees and costs to any prevailing apartment owner.

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

(a) "Designated parking space" means a parking space that is specifically designated for use by a particular apartment owner, including a garage, a deeded parking space, and a parking space in a limited common area that is restricted for use by one or more apartment owners.

(b) "Electric vehicle charging station" means a station that delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging station may include several charge points simultaneously connecting several electric vehicles to the station and any related equipment needed to facilitate charging plug-in electric vehicles.

(c) "Reasonable restriction" means a restriction that does not significantly increase the cost of an electric vehicle charging station 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 an electric vehicle charging station in compliance with the requirements of this section and for the personal noncommercial use of a unit owner, within the boundaries of a unit or in a designated parking space; or

(ii) Is in conflict with the provisions of this section.

(b) Nothing in this section prohibits an association from imposing reasonable restrictions on electric vehicle charging stations. However, it is the policy of the state to promote, encourage, and remove obstacles to the use of electric vehicle charging stations.

(2) A unit owners' association may require a unit owner to submit an application for approval for the installation of an electric vehicle charging station before installing the charging station.

(3)(a) If approval is required for the installation or use of an electric vehicle charging station, 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) A unit owners' association may not assess or charge a unit owner a fee for the placement of an electric vehicle charging station. An association may charge a reasonable fee for processing the application to approve the installation of an electric vehicle charging station, but only if such a fee exists for all applications for approval of architectural modifications.

(4) If approval is required for the installation or use of an electric vehicle charging station, a unit owners' association must approve the installation within the boundaries of a unit or in a designated parking space 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 electric vehicle charging station;

(b) Engage an electrical contractor familiar with the standards for the installation of electric vehicle infrastructure to assess the existing infrastructure necessary to support the proposed electric vehicle charging station, identify additional infrastructure needs, and install the electric vehicle charging station;

(c)(i) Provide, within the time specified in (c)(ii) of this subsection, a certificate of insurance naming the association as an additional insured on the unit owner's insurance policy for any claim related to the installation, maintenance, or use of the electric vehicle charging station, or, reimbursement to the association for the actual cost of any increased insurance premium amount attributable to the charging station;

(ii) A certificate of insurance required under (c)(i) of this subsection must be provided within 14 days after the association approves the installation of the electric vehicle charging station. Reimbursement for an increased insurance premium amount under (c)(i) of this subsection must be provided within 14 days

after the unit owner receives the association's invoice for the amount attributable to the charging station;

(d) Register the electric vehicle charging station with the association within 30 days after installation;

(e) Pay for the electricity usage associated with the electric vehicle charging station and the required means to facilitate payment for the electricity; and

(f) Comply with the requirements of this section.

(5)(a) A unit owner must obtain any permit or approval for an electric vehicle charging station 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) An electric vehicle charging station 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 an electric vehicle charging station.

(b) Electric vehicle charging station 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. Nothing in this subsection requires the association to purchase the electric vehicle charging station.

(7) A unit owner must disclose to any prospective buyers of the unit:

(a) The existence of an electric vehicle charging station and the related responsibilities of the owner under this section; and

(b) Whether the electric vehicle charging station is removable and whether the owner intends to remove the charging station.

(8) The owner and each successive owner of an electric vehicle charging station is responsible for:

(a) Costs for the maintenance, repair, and replacement of the electric vehicle charging station up until the station is removed;

(b) Costs for damage to the electric vehicle charging station, any unit, common element, or limited common element resulting from the installation, use, maintenance, repair, removal, or replacement of the electric vehicle charging station;

(c) The cost of electricity associated with the electric vehicle charging station;

(d) Obtaining and maintaining an insurance policy that meets the requirements in subsection (4)(c) of this section;

(e) If the owner decides to remove the electric vehicle charging station, costs for the removal and the restoration of the common element or limited common element after the removal; and

(f) Removing the electric vehicle charging station if reasonably necessary for the repair, maintenance, or replacement of the common element or limited common element.

(9) A unit owners' association may install an electric vehicle charging station in the common elements for the use of all unit owners and, in that case, the association must develop appropriate terms of use for the charging station.

(10)(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 an electric vehicle charging station installed and seeking to enforce compliance with this section, the court shall award reasonable attorneys' fees and costs to any prevailing unit owner.

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

(a) "Designated parking space" means a parking space that is specifically designated for use by a particular unit owner, including a garage, a deeded parking space, and a parking space in a limited common element that is restricted for use by one or more unit owners.

(b) "Electric vehicle charging station" means a station that delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging station may include several charge points simultaneously connecting several electric vehicles to the station and any related equipment needed to facilitate charging plug-in electric vehicles.

(c) "Reasonable restriction" means a restriction that does not significantly increase the cost of an electric vehicle charging station 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 an electric vehicle charging station in compliance with the requirements of this section and for the personal noncommercial use of a lot owner, within the boundaries of a lot or in a designated parking space; or

(ii) Is in conflict with the provisions of this section.

(b) Nothing in this section prohibits an association from imposing reasonable restrictions on electric vehicle charging stations. However, it is the policy of the state to promote, encourage, and remove obstacles to the use of electric vehicle charging stations.

(2) A homeowners' association may require a lot owner to submit an application for approval for the installation of an electric vehicle charging station before installing the charging station.

(3)(a) If approval is required for the installation or use of an electric vehicle charging station, 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) A homeowners' association may not assess or charge a lot owner a fee for the placement of an electric vehicle charging station. An association may charge a reasonable fee for processing the application to approve the installation

of an electric vehicle charging station, but only if such a fee exists for all applications for approval of architectural modifications.

(4) If approval is required for the installation or use of an electric vehicle charging station, a homeowners' association must approve the installation within the boundaries of a lot or in a designated parking space if the installation is reasonably possible and the lot owner agrees in writing to:

(a) Comply with the association's reasonable architectural standards applicable to the installation of the electric vehicle charging station;

(b) Engage an electrical contractor familiar with the standards for the installation of electric vehicle infrastructure to assess the existing infrastructure necessary to support the proposed electric vehicle charging station, identify additional infrastructure needs, and install the electric vehicle charging station;

(c) Register the electric vehicle charging station with the association within 30 days after installation;

(d) Pay for the electricity usage associated with the electric vehicle charging station and the required means to facilitate payment for the electricity; and

(e) Comply with the requirements of this section.

(5)(a) A lot owner must obtain any permit or approval for an electric vehicle charging station 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) An electric vehicle charging station 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, a lot owner is responsible for the costs of installing an electric vehicle charging station.

(b) Electric vehicle charging station equipment that is installed at the lot owner's cost and is removable without damage to the property owned by others may be removed at the lot owner's cost. Nothing in this subsection requires the association to purchase the electric vehicle charging station.

(7) A lot owner must disclose to any prospective buyers of the lot:

(a) The existence of an electric vehicle charging station and the related responsibilities of the owner under this section; and

(b) Whether the electric vehicle charging station is removable and whether the owner intends to remove the charging station.

(8) The owner and each successive owner of an electric vehicle charging station is responsible for:

(a) Costs for the maintenance, repair, and replacement of the electric vehicle charging station up until the station is removed;

(b) Costs for damage to the electric vehicle charging station, any lot, common area, or limited common area resulting from the installation, use, maintenance, repair, removal, or replacement of the electric vehicle charging station;

(c) The cost of electricity associated with the electric vehicle charging station;

(d) If the owner decides to remove the electric vehicle charging station, costs for the removal and the restoration of the common area or limited common area after the removal; and

(e) Removing the electric vehicle charging station if reasonably necessary for the repair, maintenance, or replacement of the common area or limited common area.

(9) A homeowners' association may install an electric vehicle charging station in the common area for the use of all lot owners and, in that case, the association must develop appropriate terms of use for the charging station.

(10)(a) A homeowners' association that willfully violates this section is liable to the lot owner for actual damages, and shall pay a civil penalty to the lot owner in an amount not to exceed \$1,000.

(b) In any action by a lot owner requesting to have an electric vehicle charging station installed and seeking to enforce compliance with this section, the court shall award reasonable attorneys' fees and costs to any prevailing lot owner.

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

(a) "Designated parking space" means a parking space that is specifically designated for use by a particular lot owner, including a garage, a deeded parking space, and a parking space in a limited common area that is restricted for use by one or more lot owners.

(b) "Electric vehicle charging station" means a station that delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging station may include several charge points simultaneously connecting several electric vehicles to the station and any related equipment needed to facilitate charging plug-in electric vehicles.

(c) "Reasonable restriction" means a restriction that does not significantly increase the cost of an electric vehicle charging station 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 an electric vehicle charging station in compliance with the requirements of this section and for the personal noncommercial use of a unit owner, within the boundaries of a unit or in a designated parking space; or

(ii) Is in conflict with the provisions of this section.

(b) Nothing in this section prohibits an association from imposing reasonable restrictions on electric vehicle charging stations. However, it is the policy of the state to promote, encourage, and remove obstacles to the use of electric vehicle charging stations.

(2) A unit owners association may require a unit owner to submit an application for approval for the installation of an electric vehicle charging station before installing the charging station.

(3)(a) If approval is required for the installation or use of an electric vehicle charging station, 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 placement of an electric vehicle charging station. An association may charge a reasonable fee for processing the application to approve the installation of an electric vehicle charging station, but only if such a fee exists for all applications for approval of architectural modifications.

(4) If approval is required for the installation or use of an electric vehicle charging station, a unit owners association must approve the installation within the boundaries of a unit or in a designated parking space 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 electric vehicle charging station;

(b) Engage an electrical contractor familiar with the standards for the installation of electric vehicle infrastructure to assess the existing infrastructure necessary to support the proposed electric vehicle charging station, identify additional infrastructure needs, and install the electric vehicle charging station;

(c)(i) Provide, within the time specified in (c)(ii) of this subsection, a certificate of insurance naming the association as an additional insured on the unit owner's insurance policy for any claim related to the installation, maintenance, or use of the electric vehicle charging station in a common interest community other than an association of single-family homes, site condominiums, or a planned use development where the units are not immediately adjacent;

(ii) A certificate of insurance required under (c)(i) of this subsection must be provided within 14 days after the association approves the installation of the electric vehicle charging station. Reimbursement for an increased insurance premium amount under (c)(i) of this subsection must be provided within 14 days after the unit owner receives the association's invoice for the amount attributable to the charging station;

(d) Register the electric vehicle charging station with the association within 30 days after installation;

(e) Pay for the electricity usage associated with the electric vehicle charging station and the required means to facilitate payment for the electricity; and

(f) Comply with the requirements of this section.

(5)(a) A unit owner must obtain any permit or approval for an electric vehicle charging station 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) An electric vehicle charging station 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 an electric vehicle charging station.

(b) Electric vehicle charging station 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. Nothing in this subsection requires the association to purchase the electric vehicle charging station.

(7) A unit owner must disclose to any prospective buyers of the unit:

(a) The existence of an electric vehicle charging station and the related responsibilities of the owner under this section; and

(b) Whether the electric vehicle charging station is removable and whether the owner intends to remove the charging station.

(8) The owner and each successive owner of an electric vehicle charging station is responsible for:

(a) Costs for the maintenance, repair, and replacement of the electric vehicle charging station up until the station is removed;

(b) Costs for damage to the electric vehicle charging station, any unit, common element, or limited common element resulting from the installation, use, maintenance, repair, removal, or replacement of the electric vehicle charging station;

(c) The cost of electricity associated with the electric vehicle charging station;

(d) Obtaining and maintaining an insurance policy that meets the requirements in subsection (4)(c) of this section;

(e) If the owner decides to remove the electric vehicle charging station, costs for the removal and the restoration of the common element or limited common element after the removal; and

(f) Removing the electric vehicle charging station if reasonably necessary for the repair, maintenance, or replacement of the common element or limited common element.

(9) A unit owners association may install an electric vehicle charging station in the common elements for the use of all unit owners and, in that case, the association must develop appropriate terms of use for the charging station.

(10)(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 an electric vehicle charging station installed and seeking to enforce compliance with this section, the court shall award reasonable attorneys' fees and costs to any prevailing unit owner.

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

(a) "Designated parking space" means a parking space that is specifically designated for use by a particular unit owner, including a garage, a deeded parking space, and a parking space in a limited common element that is restricted for use by one or more unit owners.

(b) "Electric vehicle charging station" means a station that delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging station may include several charge points

simultaneously connecting several electric vehicles to the station and any related equipment needed to facilitate charging plug-in electric vehicles.

(c) "Reasonable restriction" means a restriction that does not significantly increase the cost of an electric vehicle charging station or significantly decrease its efficiency or specified performance.

**Sec. 5.** RCW 64.34.425 and 2011 c 48 s 1 are each amended to read as follows:

(1) Except in the case of a sale where delivery of a public offering statement is required, or unless exempt under RCW 64.34.400(2), a unit owner shall furnish to a purchaser before execution of any contract for sale of a unit, or otherwise before conveyance, a resale certificate, signed by an officer or authorized agent of the association and based on the books and records of the association and the actual knowledge of the person signing the certificate, containing:

(a) A statement disclosing any right of first refusal or other restraint on the free alienability of the unit contained in the declaration;

(b) A statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner and a statement of any special assessments that have been levied against the unit which have not been paid even though not yet due;

(c) A statement, which shall be current to within ~~((forty-five))~~ 45 days, of any common expenses or special assessments against any unit in the condominium that are past due over ~~((thirty))~~ 30 days;

(d) A statement, which shall be current to within ~~((forty-five))~~ 45 days, of any obligation of the association which is past due over ~~((thirty))~~ 30 days;

(e) A statement of any other fees payable by unit owners;

(f) A statement of any anticipated repair or replacement cost in excess of five percent of the annual budget of the association that has been approved by the board of directors;

(g) A statement of the amount of any reserves for repair or replacement and of any portions of those reserves currently designated by the association for any specified projects;

(h) The annual financial statement of the association, including the audit report if it has been prepared, for the year immediately preceding the current year;

(i) A balance sheet and a revenue and expense statement of the association prepared on an accrual basis, which shall be current to within ~~((one-hundred twenty))~~ 120 days;

(j) The current operating budget of the association;

(k) A statement of any unsatisfied judgments against the association and the status of any pending suits or legal proceedings in which the association is a plaintiff or defendant;

(l) A statement describing any insurance coverage provided for the benefit of unit owners;

(m) A statement as to whether there are any alterations or improvements to the unit or to the limited common elements assigned thereto that violate any provision of the declaration;



(n) A statement of the number of units, if any, still owned by the declarant, whether the declarant has transferred control of the association to the unit owners, and the date of such transfer;

(o) A statement as to whether there are any violations of the health or building codes with respect to the unit, the limited common elements assigned thereto, or any other portion of the condominium;

(p) A statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof;

(q) A copy of the declaration, the bylaws, the rules or regulations of the association, the association's current reserve study, if any, and any other information reasonably requested by mortgagees of prospective purchasers of units. Information requested generally by the federal national mortgage association, the federal home loan bank board, the government national mortgage association, the veterans administration and the department of housing and urban development shall be deemed reasonable, provided such information is reasonably available to the association;

(r) A statement, as required by RCW 64.35.210, as to whether the units or common elements of the condominium are covered by a qualified warranty, and a history of claims under any such warranty; ~~((and))~~

(s) A statement describing any requirements related to electric vehicle charging stations located in the unit or the limited common elements assigned to the unit, including application status, insurance information, maintenance responsibilities, and any associated costs; and

(t) If the association does not have a reserve study that has been prepared in accordance with RCW 64.34.380 and 64.34.382 or its governing documents, the following disclosure:

"This association does not have a current reserve study. The lack of a current reserve study poses certain risks to you, the purchaser. Insufficient reserves may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a common element."

(2) The association, within ~~((ten))~~ 10 days after a request by a unit owner, and subject to payment of any fee imposed pursuant to RCW 64.34.304(1)(I), shall furnish a resale certificate signed by an officer or authorized agent of the association and containing the information necessary to enable the unit owner to comply with this section. For the purposes of this chapter, a reasonable charge for the preparation of a resale certificate may not exceed ~~((two hundred seventy-five dollars))~~ \$275. The association may charge a unit owner a nominal fee for updating a resale certificate within six months of the unit owner's request. The unit owner shall also sign the certificate but the unit owner is not liable to the purchaser for any erroneous information provided by the association and included in the certificate unless and to the extent the unit owner had actual knowledge thereof.

(3) A purchaser is not liable for any unpaid assessment or fee against the unit as of the date of the certificate greater than the amount set forth in the certificate prepared by the association unless and to the extent such purchaser

had actual knowledge thereof. A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the purchaser's contract is voidable by the purchaser until the certificate has been provided and for five days thereafter or until conveyance, whichever occurs first.

**Sec. 6.** RCW 64.90.640 and 2018 c 277 s 409 are each amended to read as follows:

(1) Except in the case of a sale when delivery of a public offering statement is required, or unless exempt under RCW 64.90.600(2), a unit owner must furnish to a purchaser before execution of any contract for sale of a unit, or otherwise before conveyance, a resale certificate, signed by an officer or authorized agent of the association and based on the books and records of the association and the actual knowledge of the person signing the certificate, containing:

(a) A statement disclosing any right of first refusal or other restraint on the free alienability of the unit contained in the declaration;

(b) With respect to the selling unit owner's unit, a statement setting forth the amount of any assessment currently due, any delinquent assessments, and a statement of any special assessments that have been levied and have not been paid even though not yet due;

(c) A statement, which must be current to within ~~((forty-five))~~ 45 days, of any assessments against any unit in the condominium that are past due over ~~((thirty))~~ 30 days;

(d) A statement, which must be current to within ~~((forty-five))~~ 45 days, of any monetary obligation of the association that is past due over ~~((thirty))~~ 30 days;

(e) A statement of any other fees payable to the association by unit owners;

(f) A statement of any expenditure or anticipated repair or replacement cost reasonably anticipated to be in excess of five percent of the board-approved annual budget of the association, regardless of whether the unit owners are entitled to approve such cost;

(g) A statement whether the association does or does not have a reserve study prepared in accordance with RCW 64.90.545 and 64.90.550;

(h) The annual financial statement of the association, including the audit report if it has been prepared, for the year immediately preceding the current year;

(i) The most recent balance sheet and revenue and expense statement, if any, of the association;

(j) The current operating budget of the association;

(k) A statement of any unsatisfied judgments against the association and the status of any legal actions in which the association is a party or a claimant as defined in RCW 64.50.010;

(l) A statement describing any insurance coverage carried by the association and contact information for the association's insurance broker or agent;

(m) A statement as to whether the board has given or received notice in a record that any existing uses, occupancies, alterations, or improvements in or to the seller's unit or to the limited common elements allocated to the unit violate any provision of the governing documents;

(n) A statement of the number of units, if any, still owned by the declarant, whether the declarant has transferred control of the association to the unit owners, and the date of such transfer;

(o) A statement as to whether the board has received notice in a record from a governmental agency of any violation of environmental, health, or building codes with respect to the seller's unit, the limited common elements allocated to that unit, or any other portion of the common interest community that has not been cured;

(p) A statement of the remaining term of any leasehold estate affecting the common interest community and the provisions governing any extension or renewal of the leasehold estate;

(q) A statement of any restrictions in the declaration affecting the amount that may be received by a unit owner upon sale;

(r) In a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the unit owner of real estate taxes and interest paid by the association;

(s) A statement describing any pending sale or encumbrance of common elements;

(t) A statement disclosing the effect on the unit to be conveyed of any restrictions on the owner's right to use or occupy the unit or to lease the unit to another person;

(u) A copy of the declaration, the organizational documents, the rules or regulations of the association, the minutes of board meetings and association meetings, except for any information exempt from disclosure under RCW 64.90.495(3), for the last ~~((twelve))~~ 12 months, a summary of the current reserve study for the association, and any other information reasonably requested by mortgagees of prospective purchasers of units. Information requested generally by the federal national mortgage association, the federal home loan bank board, the government national mortgage association, the veterans administration, or the department of housing and urban development is deemed reasonable if the information is reasonably available to the association;

(v) A statement whether the units or common elements of the common interest community are covered by a qualified warranty under chapter 64.35 RCW and, if so, a history of claims known to the association as having been made under any such warranty;

(w) A description of any age-related occupancy restrictions affecting the common interest community; ~~((and))~~

(x) A statement describing any requirements related to electric vehicle charging stations located in the unit or the limited common elements allocated to the unit, including application status, insurance information, maintenance responsibilities, and any associated costs; and

(y) If the association does not have a reserve study that has been prepared in accordance with RCW 64.90.545 and 64.90.550 or its governing documents, the following disclosure:

"This association does not have a current reserve study. The lack of a current reserve study poses certain risks to you, the purchaser. Insufficient reserves may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a common element."

(2) The association, within ~~((ten))~~ 10 days after a request by a unit owner, and subject to the payment of any fees imposed pursuant to RCW 64.90.405(2)(m), must furnish a resale certificate signed by an officer or authorized agent of the association and containing the information necessary to enable the unit owner to comply with this section. For the purposes of this chapter, a reasonable charge for the preparation of a resale certificate may not exceed ~~((two hundred seventy five dollars))~~ \$275. The association may charge a unit owner a nominal fee not to exceed ~~((one hundred dollars))~~ \$100 for updating a resale certificate within six months of the unit owner's request. A unit owner is not liable to the purchaser for any erroneous information provided by the association and included in the certificate.

(3)(a) A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the certificate prepared by the association.

(b) A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the purchase contract is voidable by the purchaser until the certificate has been provided and for five days thereafter or until conveyance, whichever occurs first.

Passed by the House February 9, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 28

[Substitute House Bill 1794]

### DISHONORED PAYCHECKS—REIMBURSEMENT OF FEES

AN ACT Relating to requiring an employer to reimburse employee fees when a paycheck is dishonored by nonacceptance or nonpayment; and amending RCW 49.48.010.

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

**Sec. 1.** RCW 49.48.010 and 2020 c 84 s 3 are each amended to read as follows:

(1)(a) When any employer pays an employee's wages with any instrument defined by RCW 62A.3-104 that is subsequently returned for nonsufficient funds, the employer shall reimburse the employee for a fee charged by the employee's financial institution for the dishonored instrument so long as the employee presents the instrument within 30 days of its receipt.

(b) The employer shall not be liable to reimburse any fees incurred by the employee if the employer presents written confirmation by the employer's financial institution that the instrument was returned for nonsufficient funds due to an error.

(2) When any employee shall cease to work for an employer, whether by discharge or by voluntary withdrawal, the wages due him or her on account of his or her employment shall be paid to him or her at the end of the established pay period: PROVIDED, HOWEVER, That this ~~((paragraph))~~ subsection shall not apply when workers are engaged in an employment that normally involves working for several employers in the same industry interchangeably, and the several employers or some of them cooperate to establish a plan for the weekly payment of wages at a central place or places and in accordance with a unified

schedule of paydays providing for at least one payday each week; but this subsection shall not apply to any such plan until ten days after notice of their intention to set up such a plan shall have been given to the director of labor and industries by the employers who cooperate to establish the plan; and having once been established, no such plan can be abandoned except after notice of their intention to abandon such plan has been given to the director of labor and industries by the employers intending to abandon the plan: PROVIDED FURTHER, That the duty to pay an employee forthwith shall not apply if the labor-management agreement under which the employee has been employed provides otherwise.

(3) It shall be unlawful for any employer to withhold or divert any portion of an employee's wages unless the deduction is:

~~((1))~~ (a) Required by state or federal law; or

~~((2))~~ (b) Except as prohibited under RCW 49.48.160, specifically agreed upon orally or in writing by the employee and employer; or

~~((3))~~ (c) For medical, surgical, or hospital care or service, pursuant to any rule or regulation: PROVIDED, HOWEVER, That the deduction is openly, clearly, and in due course recorded in the employer's books and records.

~~((Paragraph two of this section))~~ (4) Subsection (3) of this section shall not be construed to affect the right of any employer or former employer to sue upon or collect any debt owed to said employer or former employer by his or her employees or former employees.

Passed by the House February 8, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 29

[Second Substitute House Bill 1818]

### DEPARTMENT OF CORRECTIONS—SUPERVISION FEES AND HOUSING VOUCHERS

AN ACT Relating to promoting successful reentry and rehabilitation of persons convicted of criminal offenses; amending RCW 9.94A.729, 72.02.100, 9.94A.74504, 9.94A.760, 9.95.214, 9.94A.703, 9.94A.703, 9.94A.704, 9.94B.050, 9.95.204, and 36.18.016; creating new sections; repealing RCW 9.94A.780, 72.04A.120, and 72.11.040; providing effective dates; and providing an expiration date.

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

**Sec. 1.** RCW 9.94A.729 and 2020 c 330 s 2 are each amended to read as follows:

(1)(a) The term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and adopted by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits.

(b) Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is

transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the number of days of early release credits lost or not earned. The department may approve a jail certification from a correctional agency that calculates early release time based on the actual amount of confinement time served by the offender before sentencing when an erroneous calculation of confinement time served by the offender before sentencing appears on the judgment and sentence. The department must adjust an offender's rate of early release listed on the jail certification to be consistent with the rate applicable to offenders in the department's facilities. However, the department is not authorized to adjust the number of presentence early release days that the jail has certified as lost or not earned.

(2)(a) An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(b) An offender whose sentence includes any impaired driving enhancements under RCW 9.94A.533(7), minor child enhancements under RCW 9.94A.533(13), or both, shall not receive any good time credits or earned release time for any portion of his or her sentence that results from those enhancements.

(3) An offender may earn early release time as follows:

(a) In the case of an offender sentenced pursuant to RCW 10.95.030(3) or 10.95.035, the offender may not receive any earned early release time during the minimum term of confinement imposed by the court; for any remaining portion of the sentence served by the offender, the aggregate earned release time may not exceed (~~ten~~) 10 percent of the sentence.

(b) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed (~~fifteen~~) 15 percent of the sentence.

(c) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed (~~ten~~) 10 percent of the sentence.

(d) An offender is qualified to earn up to (~~fifty~~) 50 percent of aggregate earned release time if he or she:

(i) Is not classified as an offender who is at a high risk to reoffend as provided in subsection (4) of this section;

(ii) Is not confined pursuant to a sentence for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) Has no prior conviction for the offenses listed in (d)(ii) of this subsection;

(iv) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(v) Has not committed a new felony after July 22, 2007, while under community custody.

(e) In no other case shall the aggregate earned release time exceed one-third of the total sentence.

(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(d) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection (3)(d) of this section does not apply to offenders convicted after July 1, 2010.

(5)(a) A person who is eligible for earned early release as provided in this section and who will be supervised by the department pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to community custody in lieu of earned release time;

(b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(c) The department may deny transfer to community custody in lieu of earned release time if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody;

(d) If the department is unable to approve the offender's release plan, the department may do one or more of the following:

(i) Transfer an offender to partial confinement in lieu of earned early release for a period not to exceed three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in RCW 9.94A.728(1)(e);

(ii) Provide rental vouchers to the offender for a period not to exceed ~~((three))~~ six months if rental assistance will result in an approved release plan.

A voucher must be provided in conjunction with additional transition support programming or services that enable an offender to participate in services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming;

(e) The department shall maintain a list of housing providers that meets the requirements of RCW 72.09.285. If more than two voucher recipients will be

residing per dwelling unit, as defined in RCW 59.18.030, rental vouchers for those recipients may only be paid to a housing provider on the department's list;

(f) For each offender who is the recipient of a rental voucher, the department shall gather data as recommended by the Washington state institute for public policy in order to best demonstrate whether rental vouchers are effective in reducing recidivism.

(6) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section.

**Sec. 2.** RCW 72.02.100 and 2017 c 214 s 1 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 ~~((forty dollars))~~ \$40 for subsistence, and transportation by the least expensive method of public transportation not to exceed the cost of ~~((one hundred dollars))~~ \$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 ~~((sixty))~~ 60 additional dollars 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) ~~((Within existing resources, the))~~ (a) The department of corrections may provide temporary housing assistance for a person being released from ((the Washington corrections center for women or mission creek corrections center for women)) any state correctional facility through the use of rental vouchers, for a period not to exceed ((three)) 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. 3.** RCW 9.94A.74504 and 2011 1st sp.s. c 40 s 14 are each amended to read as follows:

(1) The department may supervise nonfelony offenders transferred to Washington pursuant to RCW 9.94A.745, the interstate compact for adult offender supervision, and shall supervise these offenders according to the provisions of this chapter.

(2) The department shall process applications for interstate transfer of felony and nonfelony offenders requesting transfer of supervision out-of-state pursuant to RCW 9.94A.745, the interstate compact for adult offender supervision(~~, and may charge offenders a reasonable fee for processing the application.~~

~~(3) The department shall adopt a rule prescribing the amount of the interstate transfer application fee).~~

**Sec. 4.** RCW 9.94A.760 and 2018 c 269 s 14 are each amended to read as follows:

(1) Whenever a person is convicted in superior court, the court may order the payment of a legal financial obligation as part of the sentence. The court may not order an offender to pay costs as described in RCW 10.01.160 if the court finds that the offender at the time of sentencing is indigent as defined in RCW 10.101.010(3) (a) through (c). An offender being indigent as defined in RCW 10.101.010(3) (a) through (c) is not grounds for failing to impose restitution or the crime victim penalty assessment under RCW 7.68.035. The court must on either the judgment and sentence or on a subsequent order to pay, designate the total amount of a legal financial obligation and segregate this amount among the separate assessments made for restitution, costs, fines, and other assessments required by law. On the same order, the court is also to set a sum that the offender is required to pay on a monthly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount if the department has active supervision of the offender, otherwise the county clerk shall set the amount.

(2) Upon receipt of each payment made by or on behalf of an offender, the county clerk shall distribute the payment in the following order of priority until satisfied:

(a) First, proportionally to restitution to victims that have not been fully compensated from other sources;

(b) Second, proportionally to restitution to insurance or other sources with respect to a loss that has provided compensation to victims;

(c) Third, proportionally to crime victims' assessments; and

(d) Fourth, proportionally to costs, fines, and other assessments required by law.

(3) If the court determines that the offender, at the time of sentencing, has the means to pay for the cost of incarceration, the court may require the offender to pay for the cost of incarceration. The court shall not order the offender to pay the cost of incarceration if the court finds that the offender at the time of sentencing is indigent as defined in RCW 10.101.010(3) (a) through (c). Costs of incarceration ordered by the court shall not exceed a rate of ~~((fifty dollars))~~ \$50 per day of incarceration, if incarcerated in a prison, or the actual cost of incarceration per day of incarceration, if incarcerated in a county jail. In no case may the court require the offender to pay more than ~~((one hundred dollars))~~ \$100

per day for the cost of incarceration. All funds recovered from offenders for the cost of incarceration in the county jail shall be remitted to the county and the costs of incarceration in a prison shall be remitted to the department.

(4) The court may add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction is to be issued immediately. If the court chooses not to order the immediate issuance of a notice of payroll deduction at sentencing, the court shall add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender if a monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal to or greater than the amount payable for one month is owed.

If a judgment and sentence or subsequent order to pay does not include the statement that a notice of payroll deduction may be issued or other income-withholding action may be taken if a monthly legal financial obligation payment is past due, the department or the county clerk may serve a notice on the offender stating such requirements and authorizations. Service shall be by personal service or any form of mail requiring a return receipt.

(5) Independent of the department or the county clerk, the party or entity to whom the legal financial obligation is owed shall have the authority to use any other remedies available to the party or entity to collect the legal financial obligation. These remedies include enforcement in the same manner as a judgment in a civil action by the party or entity to whom the legal financial obligation is owed. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim. The judgment and sentence shall identify the party or entity to whom restitution is owed so that the state, party, or entity may enforce the judgment. If restitution is ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of rape of a child or a victim's child born from the rape, the Washington state child support registry shall be identified as the party to whom payments must be made. Restitution obligations arising from the rape of a child in the first, second, or third degree that result in the pregnancy of the victim may be enforced for the time periods provided under RCW 9.94A.750(6) and 9.94A.753(6). All other legal financial obligations for an offense committed prior to July 1, 2000, may be enforced at any time during the ~~((ten))~~ 10-year period following the offender's release from total confinement or within ~~((ten))~~ 10 years of entry of the judgment and sentence, whichever period ends later. Prior to the expiration of the initial ~~((ten))~~ 10-year period, the superior court may extend the criminal judgment an additional ~~((ten))~~ 10 years for payment of legal financial obligations including crime victims' assessments. All other legal financial obligations for an offense committed on or after July 1, 2000, may be enforced at any time the offender remains under the court's jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The department may only supervise the offender's compliance with payment of the legal financial obligations during any period in which the department is authorized to supervise the offender in the

community under RCW 9.94A.728, 9.94A.501, or in which the offender is confined in a state correctional institution or a correctional facility pursuant to a transfer agreement with the department, and the department shall supervise the offender's compliance during any such period. The department is not responsible for supervision of the offender during any subsequent period of time the offender remains under the court's jurisdiction. The county clerk is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.

(6) In order to assist the court in setting a monthly sum that the offender must pay during the period of supervision, the offender is required to report to the department for purposes of preparing a recommendation to the court. When reporting, the offender is required, under oath, to respond truthfully and honestly to all questions concerning present, past, and future earning capabilities and the location and nature of all property or financial assets. The offender is further required to bring all documents requested by the department.

(7) After completing the investigation, the department shall make a report to the court on the amount of the monthly payment that the offender should be required to make towards a satisfied legal financial obligation.

(8)(a) During the period of supervision, the department may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the department sets the monthly payment amount, the department may modify the monthly payment amount without the matter being returned to the court. During the period of supervision, the department may require the offender to report to the department for the purposes of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the department in order to prepare the collection schedule.

(b) Subsequent to any period of supervision, or if the department is not authorized to supervise the offender in the community, the county clerk may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the county clerk sets the monthly payment amount, or if the department set the monthly payment amount and the department has subsequently turned the collection of the legal financial obligation over to the county clerk, the clerk may modify the monthly payment amount without the matter being returned to the court. During the period of repayment, the county clerk may require the offender to report to the clerk for the purpose of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the county clerk in order to prepare the collection schedule.

(9) After the judgment and sentence or payment order is entered, the department is authorized, for any period of supervision, to collect the legal financial obligation from the offender. Subsequent to any period of supervision or, if the department is not authorized to supervise the offender in the

community, the county clerk is authorized to collect unpaid legal financial obligations from the offender. Any amount collected by the department shall be remitted daily to the county clerk for the purpose of disbursements. The department and the county clerks are authorized, but not required, to accept credit cards as payment for a legal financial obligation, and any costs incurred related to accepting credit card payments shall be the responsibility of the offender.

(10) The department or any obligee of the legal financial obligation may seek a mandatory wage assignment for the purposes of obtaining satisfaction for the legal financial obligation pursuant to RCW 9.94A.7701. Any party obtaining a wage assignment shall notify the county clerk. The county clerks shall notify the department, or the administrative office of the courts, whichever is providing the monthly billing for the offender.

(11) The requirement that the offender pay a monthly sum towards a legal financial obligation constitutes a condition or requirement of a sentence and the offender is subject to the penalties for noncompliance as provided in RCW 9.94B.040, 9.94A.737, or 9.94A.740. If the court determines that the offender is homeless or a person who is mentally ill, as defined in RCW 71.24.025, failure to pay a legal financial obligation is not willful noncompliance and shall not subject the offender to penalties.

(12)(a) The administrative office of the courts shall mail individualized periodic billings to the address known by the office for each offender with an unsatisfied legal financial obligation.

(b) The billing shall direct payments(~~(, other than outstanding cost of supervision assessments under RCW 9.94A.780, parole assessments under RCW 72.04A.120, and cost of probation assessments under RCW 9.95.214,))~~ to the county clerk(~~(, and cost of supervision, parole, or probation assessments to the department))~~).

(c) The county clerk shall provide the administrative office of the courts with notice of payments by such offenders no less frequently than weekly.

(d) The county clerks, the administrative office of the courts, and the department shall maintain agreements to implement this subsection.

(13) The department shall arrange for the collection of unpaid legal financial obligations during any period of supervision in the community through the county clerk. The department shall either collect unpaid legal financial obligations or arrange for collections through another entity if the clerk does not assume responsibility or is unable to continue to assume responsibility for collection pursuant to subsection (5) of this section. The costs for collection services shall be paid by the offender.

(14) The county clerk may access the records of the employment security department for the purposes of verifying employment or income, seeking any assignment of wages, or performing other duties necessary to the collection of an offender's legal financial obligations.

(15) Nothing in this chapter makes the department, the state, the counties, or any state or county employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations or for the acts of any offender who is no longer, or was not, subject to supervision by the department for a term of community custody, and who

remains under the jurisdiction of the court for payment of legal financial obligations.

**Sec. 5.** RCW 9.95.214 and 2011 1st sp.s. c 40 s 11 are each amended to read as follows:

Whenever a defendant convicted of a misdemeanor or gross misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and the defendant is supervised by a county probation department, the county probation department may assess and collect from the defendant for the duration of the term of supervision a monthly assessment not to exceed ~~((one hundred dollars))~~ \$100 per month. ~~((Whenever a defendant convicted of a misdemeanor or gross misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and the defendant is supervised by the department of corrections, the department may collect supervision intake fees pursuant to RCW 9.94A.780.))~~ This assessment shall be paid to the agency supervising the defendant and shall be applied, along with funds appropriated by the legislature, toward the payment or part payment of the cost of supervising the defendant. The county probation department shall suspend such assessment while the defendant is being supervised by another state pursuant to RCW 9.94A.745, the interstate compact for adult offender supervision.

**NEW SECTION. Sec. 6.** Subject to the availability of amounts appropriated for this specific purpose, the Washington state institute for public policy shall conduct an outcome evaluation and benefit-cost analysis of Washington's housing voucher program to account for the expansion of the program under RCW 9.94A.729 and 72.02.100. The analysis should take into account impacts on homelessness, recidivism, criminal justice costs, use of public services, and other factors determined to be appropriate by the institute. The department of corrections shall cooperate with the institute to facilitate access to data or other resources necessary to complete the analysis required under this section. The institute shall submit a final report to the governor and appropriate committees of the legislature by November 1, 2025.

**Sec. 7.** RCW 9.94A.703 and 2018 c 201 s 9004 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 ~~((eighteen))~~ 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 ~~((thirteen))~~ 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) ~~((Pay supervision fees as determined by the department; and  
(e)))~~ 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 26.50.150.

(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.

**Sec. 8.** RCW 9.94A.703 and 2021 c 215 s 104 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 ~~((eighteen))~~ 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 ~~((thirteen))~~ 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) ~~((Pay supervision fees as determined by the department; and~~

~~(e)))~~ 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.

**Sec. 9.** RCW 9.94A.704 and 2019 c 263 s 601 are each amended to read as follows:

(1) Every person who is sentenced to a period of community custody shall report to and be placed under the supervision of the department, subject to RCW 9.94A.501.

(2)(a) The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of community custody based upon the risk to community safety.

(b) Within the funds available for community custody, the department shall determine conditions on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection (2)(b).

(3) If the offender is supervised by the department, the department shall at a minimum instruct the offender to:

- (a) Report as directed to a community corrections officer;
- (b) Remain within prescribed geographical boundaries;
- (c) Notify the community corrections officer of any change in the offender's address or employment; and
- (d) ~~((Pay the supervision fee assessment; and~~



(e)) 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 receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to the crime of conviction, the offender's risk of reoffending, or the safety of the community.

(8) The department shall notify the offender in writing upon community custody intake of the department's violation process.

(9) The department may require offenders to pay for special services rendered including electronic monitoring, day reporting, and telephone reporting, dependent on the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(10)(a) When an offender on community custody is under the authority of the board, the department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions based upon the offender's risk to community safety and may recommend affirmative conduct or electronic monitoring consistent with subsections (4) through (6) of this section.

(b) The board may impose conditions in addition to court-ordered conditions. The board must consider and may impose department-recommended conditions. The board must impose a condition requiring the offender to refrain from contact with the victim or immediate family member of the victim as provided in subsection (5)(a) of this section.

(c) By the close of the next business day, after receiving notice of a condition imposed by the board or the department, an offender may request an administrative hearing under rules adopted by the board. The condition shall remain in effect unless the hearing examiner finds that it is not reasonably related to any of the following:

- (i) The crime of conviction;
- (ii) The offender's risk of reoffending;
- (iii) The safety of the community;
- (iv) The offender's risk of domestic violence reoffense.

(d) If the department finds that an emergency exists requiring the immediate imposition of additional conditions in order to prevent the offender from committing a crime, the department may impose such conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately after notice to the offender by personal service, but shall not remain in effect longer than seven working days unless approved by the board.

(11) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

**Sec. 10.** RCW 9.94B.050 and 2020 c 276 s 2 are each amended to read as follows:

When a court sentences an offender to a term of total confinement in the custody of the department for any of the offenses specified in this section, the court shall also sentence the offender to a term of community placement as provided in this section. Except as provided in RCW 9.94A.501, the department shall supervise any sentence of community placement imposed under this section.

(1) The court shall order a one-year term of community placement for the following:

(a) A sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990; or

(b) An offense committed on or after July 1, 1988, but before July 25, 1999, that is:

(i) Assault in the second degree;

(ii) Assault of a child in the second degree;

(iii) A crime against persons where it is determined in accordance with RCW 9.94A.825 that the offender or an accomplice was armed with a deadly weapon at the time of commission; or

(iv) A felony offense under chapter 69.50 or 69.52 RCW not sentenced under RCW 9.94A.660.

(2) The court shall sentence the offender to a term of community placement of two years or up to the period of earned release awarded pursuant to RCW 9.94A.728, whichever is longer, for:

(a) An offense categorized as a sex offense committed on or after July 1, 1990, but before June 6, 1996, including those sex offenses also included in other offense categories;

(b) A serious violent offense other than a sex offense committed on or after July 1, 1990, but before July 1, 2000; or

(c) A vehicular homicide or vehicular assault committed on or after July 1, 1990, but before July 1, 2000.

(3) The community placement ordered under this section shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned release. When the court sentences an offender to the statutory maximum sentence then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible. Any period of community custody actually served shall be credited against the community placement portion of the sentence. The community placement shall run concurrently to any period of probation, parole, community supervision, community placement, or community custody previously imposed by any court in any jurisdiction, unless the court pronouncing the current sentence expressly orders that they be served consecutively to each other.

(4) Unless a condition is waived by the court, the terms of any community placement imposed under this section shall include the following conditions:

(a) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(b) The offender shall work at department-approved education, employment, or community restitution, or any combination thereof;

(c) The offender shall not possess or consume controlled substances except pursuant to lawfully issued prescriptions; and

~~(d) ((The offender shall pay supervision fees as determined by the department; and~~

~~(e))~~ The residence location and living arrangements shall be subject to the prior approval of the department during the period of community placement.

(5) As a part of any terms of community placement imposed under this section, the court may also order one or more of the following special conditions:

(a) The offender shall remain within, or outside of, a specified geographical boundary;

(b) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(c) The offender shall participate in crime-related treatment or counseling services;

(d) The offender shall not consume alcohol; or

(e) The offender shall comply with any crime-related prohibitions.

(6) An offender convicted of a felony sex offense against a minor victim after June 6, 1996, shall comply with any terms and conditions of community placement imposed by the department relating to contact between the sex offender and a minor victim or a child of similar age or circumstance as a previous victim.

(7) Prior to or during community placement, upon recommendation of the department, the sentencing court may remove or modify any conditions of community placement so as not to be more restrictive.

**Sec. 11.** RCW 9.95.204 and 2011 1st sp.s. c 40 s 6 are each amended to read as follows:

(1) When a superior court places a defendant convicted of a misdemeanor or gross misdemeanor on probation and orders supervision under RCW 9.92.060 or

9.95.210, the department of corrections has responsibility for supervision of defendants pursuant to RCW 9.94A.501 and 9.94A.5011.

(2) A county legislative authority may assume responsibility for the supervision of defendants within its jurisdiction who have been convicted of a misdemeanor or gross misdemeanor and sentenced to probation by a superior court. If a county legislative authority chooses to assume responsibility for defendants supervised by the department, the assumption of responsibility shall be made by contract with the department of corrections on a biennial basis.

(3) The state of Washington, the department of corrections and its employees, community corrections officers, and volunteers who assist community corrections officers are not liable for any harm caused by the actions of a superior court misdemeanor probationer who is under the supervision of a county. A county, its probation department and employees, probation officers, and volunteers who assist probation officers are not liable for any harm caused by the actions of a superior court misdemeanor probationer who is under the supervision of the department of corrections.

(4) The state of Washington, the department of corrections and its employees, community corrections officers, any county providing supervision services pursuant to this section and its employees, probation officers, and volunteers who assist community corrections officers and probation officers in the superior court misdemeanor probation program are not liable for civil damages resulting from any act or omission in the rendering of superior court misdemeanor probation activities unless the act or omission constitutes gross negligence. For purposes of this section, "volunteers" is defined according to RCW 51.12.035.

(5)(a) If a misdemeanor probationer requests permission to travel or transfer to another state, the assigned probation officer employed or contracted for by the county shall determine whether such request is subject to RCW 9.94A.745, the interstate compact for adult offender supervision. If such request is subject to the compact, the probation officer shall:

(i) Notify the department of corrections of the probationer's request;

(ii) Provide the department of corrections with the supporting documentation it requests for processing an application for transfer;

(iii) ~~(Notify the probationer of the fee due to the department of corrections for processing an application under the compact;~~

~~(iv))~~ Cease supervision of the probationer while another state supervises the probationer pursuant to the compact;

~~((iv))~~ (iv) Resume supervision if the probationer returns to this state before the term of probation expires.

(b) The probationer shall receive credit for time served while being supervised by another state.

**Sec. 12.** RCW 36.18.016 and 2021 c 102 s 17 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2)(a) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, and any party filing a counterclaim, cross-claim, or third-party claim in any such action, a fee of ~~((thirty-six dollars))~~ \$36 must be paid.

(b) The party filing the first or initial petition for dissolution, legal separation, or declaration concerning the validity of marriage shall pay, at the time and in addition to the filing fee required under RCW 36.18.020, a fee of ~~((fifty-four dollars))~~ \$54. The clerk of the superior court shall transmit monthly ~~((forty-eight dollars))~~ \$48 of the ~~((fifty-four dollar))~~ \$54 fee collected under this subsection to the state treasury for deposit in the domestic violence prevention account. The remaining six dollars shall be retained by the county for the purpose of supporting community-based domestic violence services within the county, except for five percent of the six dollars, which may be retained by the court for administrative purposes. On or before December 15th of each year, the county shall report to the department of social and health services revenues associated with this section and community-based domestic violence services expenditures. The department of social and health services shall develop a reporting form to be utilized by counties for uniform reporting purposes.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of ~~((one hundred twenty-five dollars))~~ \$125; if the demand is for a jury of ~~((twelve))~~ 12, a fee of ~~((two hundred fifty dollars))~~ \$250. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of ~~((twelve))~~ 12, an additional ~~((one hundred twenty-five dollar))~~ \$125 fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of ~~((one hundred twenty-five dollars))~~ \$125 for a jury of six, or ~~((two hundred fifty dollars))~~ \$250 for a jury of ~~((twelve))~~ 12 may be imposed as costs under RCW 10.46.190.

(4) For preparing a certified copy of an instrument on file or of record in the clerk's office, for the first page or portion of the first page, a fee of five dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of two dollars for each additional seal affixed must be charged. For preparing a copy of an instrument on file or of record in the clerk's office without a seal, a fee of ~~((fifty))~~ 50 cents per page must be charged. When copying a document without a seal or file that is in an electronic format, a fee of ~~((twenty-five))~~ 25 cents per page must be charged. For copies made on a compact disc, an additional fee of ~~((twenty dollars))~~ \$20 for each compact disc must be charged.

(5) For executing a certificate, with or without a seal, a fee of two dollars must be charged.

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of ~~((twenty dollars))~~ \$20 must be charged.

(7) For filing a supplemental proceeding, a fee of ~~((twenty dollars))~~ \$20 must be charged.

(8) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(9) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of five dollars.

(10) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(11) For clerk's services such as performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed (~~(thirty dollars)~~) \$30 per hour.

(12) For processing ex parte orders, the clerk may collect a fee of (~~(thirty dollars)~~) \$30.

(13) For duplicated recordings of court's proceedings there must be a fee of (~~(ten dollars)~~) \$10 for each audiotape and (~~(twenty-five dollars)~~) \$25 for each video or other electronic storage medium.

(14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of (~~(twenty dollars)~~) \$20 must be charged.

(15) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of (~~(two hundred dollars)~~) \$200 must be charged. When the extension of judgment is at the request of the clerk, the (~~(two hundred dollar)~~) \$200 charge may be imposed as court costs under RCW 10.46.190.

(16) A facilitator surcharge of up to (~~(twenty dollars)~~) \$20 must be charged as authorized under RCW 26.12.240.

(17) For filing an adjudication claim under RCW 90.03.180, a fee of (~~(twenty-five dollars)~~) \$25 must be charged.

(18) For filing a claim of frivolous lien under RCW 60.04.081 or 60.90.130 or filing an action to release a lien under RCW 60.90.090 and 60.90.140, a fee of (~~(thirty-five dollars)~~) \$35 must be charged.

(19) For preparation of a change of venue, a fee of (~~(twenty dollars)~~) \$20 must be charged by the originating court in addition to the per page charges in subsection (4) of this section.

(20) A service fee of five dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(21) For preparation of clerk's papers under RAP 9.7, a fee of (~~(fifty)~~) 50 cents per page must be charged.

(22) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(23) Investment service charge and earnings under RCW 36.48.090 must be charged.

(24) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

(25) For filing a request for civil arbitration, a filing fee may be assessed against the party filing a statement of arbitrability not to exceed (~~(two hundred fifty dollars)~~) \$250 as established by authority of local ordinance. (~~(Two hundred twenty dollars)~~) \$220 of this charge shall be used to offset the cost of the civil arbitration program. (~~(Thirty dollars)~~) \$30 of each fee collected under this subsection must be used for indigent defense services.

(26) For filing a request for trial de novo of a civil arbitration award, a fee not to exceed (~~(four hundred dollars)~~) \$400 as established by authority of local ordinance must be charged.

(27) A public agency may not charge a fee to a law enforcement agency, for preparation, copying, or mailing of certified copies of the judgment and sentence, information, affidavit of probable cause, and/or the notice of requirement to register, of a sex offender convicted in a Washington court, when

such records are necessary for risk assessment, preparation of a case for failure to register, or maintenance of a sex offender's registration file.

(28) For the filing of a will or codicil under the provisions of chapter 11.12 RCW, a fee of ~~((twenty dollars))~~ \$20 must be charged.

~~(29) ((For the collection of an adult offender's unpaid legal financial obligations, the clerk may impose an annual fee of up to one hundred dollars, pursuant to RCW 9.94A.780.~~

~~(30))~~ A surcharge of up to ~~((twenty dollars))~~ \$20 may be charged in dissolution and legal separation actions as authorized by RCW 26.12.260.

The revenue to counties from the fees established in this section shall be deemed to be complete reimbursement from the state for the state's share of benefits paid to the superior court judges of the state prior to July 24, 2005, and no claim shall lie against the state for such benefits.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

(1) RCW 9.94A.780 (Offender supervision intake fees) and 2011 1st sp.s. c 40 s 10, 2008 c 231 s 37, 2003 c 379 s 18, 1991 c 104 s 1, 1989 c 252 s 8, 1984 c 209 s 15, & 1982 c 207 s 2; and

(2) RCW 72.04A.120 (Parolee supervision intake fees) and 2012 c 117 s 458, 2011 1st sp.s. c 40 s 12, 1991 c 104 s 2, 1989 c 252 s 20, & 1982 c 207 s 1.

NEW SECTION. Sec. 14. RCW 72.11.040 (Cost of supervision fund) and 2011 1st sp.s. c 40 s 13, 2005 c 518 s 943, 2003 1st sp.s. c 25 s 936, 2001 2nd sp.s. c 7 s 919, 2000 2nd sp.s. c 1 s 914, 1999 c 309 s 921, & 1989 c 252 s 26, as now existing or hereafter amended, are each repealed, effective June 30, 2022.

NEW SECTION. Sec. 15. The state treasurer shall transfer all residual funds in the cost of supervision fund to the general fund on June 30, 2022.

NEW SECTION. Sec. 16. Section 7 of this act expires July 1, 2022.

NEW SECTION. Sec. 17. Section 8 of this act takes effect July 1, 2022.

NEW SECTION. Sec. 18. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the House February 12, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 30

[House Bill 1832]

### CODE CITIES—FORM OF GOVERNMENT ELECTIONS AND CITY MANAGER RESIDENCY

AN ACT Relating to code city form of government elections and city manager appointment; and amending RCW 35A.06.040 and 35A.13.050.

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

**Sec. 1.** RCW 35A.06.040 and 1990 c 259 s 4 are each amended to read as follows:

(1) Upon the passage of a resolution of the legislative body of a noncharter code city, or upon the filing of a sufficient petition with the county auditor signed by registered voters in number equal to not less than ten percent of the votes cast at the last general municipal election therein, proposing abandonment by the city of the plan of government under which it is then operating and adoption of another plan, naming such plan and its effective date, the sufficiency of the petition for abandonment shall be determined, an election ordered and conducted, and the results declared generally as provided in chapter 35A.02 RCW insofar as such provisions are applicable. If the resolution or petition proposes a plan of government other than those authorized in chapters 35A.12 RCW and 35A.13 RCW of this title, the resolution or petition shall specify the class under which such city will be classified upon adoption of such plan.

(2) A resolution proposing abandonment of a city's current plan of government and the adoption of a council-manager plan of government under subsection (1) of this section may be combined with a resolution proposing to designate the person elected to council position one as the chair of the council as described in RCW 35A.13.033, and such a combined proposal may be placed before the voters of the city as a single proposition.

**Sec. 2.** RCW 35A.13.050 and 2009 c 549 s 3022 are each amended to read as follows:

The city manager need not be a resident at the time of his or her appointment, ~~((but shall reside in the code city after his or her appointment))~~ unless such ~~((residence))~~ residency is ~~((waived))~~ required by the council. He or she shall be chosen by the council solely on the basis of his or her executive and administrative qualifications with special reference to his or her actual experience in, or his or her knowledge of, accepted practice in respect to the duties of his or her office. No person elected to membership on the council shall be eligible for appointment as city manager until one year has elapsed following the expiration of the term for which he or she was elected.

Passed by the House February 9, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 31

[House Bill 1834]

### STUDENT EXCUSED ABSENCES—MENTAL HEALTH

AN ACT Relating to student excused absences for mental health reasons; amending RCW 28A.300.046; and creating a new section.

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

**NEW SECTION. Sec. 1.** After hearing from youth across the state of Washington, the legislature recognizes that students' mental health is a component of their physical health and that students' mental health can affect their ability to learn. The legislature finds that school districts are not consistently recognizing student absences for mental health reasons as excused absences. Therefore, the legislature intends to require that student absences for mental health reasons be categorized as excused absences.



**Sec. 2.** RCW 28A.300.046 and 2013 2nd sp.s. c 18 s 306 are each amended to read as follows:

(1)(a) The superintendent of public instruction shall adopt rules establishing a standard definition of student absence from school. By the beginning of the 2022-23 school year, the rules must categorize an absence for a mental health reason as an excused absence due to illness, health condition, or medical appointment.

~~(b) In ((adopting the definition))~~ developing the rules, the superintendent shall review current practices in Washington school districts, definitions used in other states, and any national standards or definitions used by the national center for education statistics or other national groups. ~~((The))~~ Prior to filing notice of the rules under RCW 34.05.320, the superintendent shall ((also)) consult with the ((building bridges work group)) graduation: a team effort partnership advisory committee established under RCW 28A.175.075 and a student advisory group with membership as described in (c) of this subsection.

~~((b))~~ (c) The superintendent shall develop and publish guidelines for public schools to implement the definition of student absence from school adopted under this section. The superintendent must consider including guidance for schools to integrate their responses to student excused absences for physical and mental health into their support systems for student well-being. In developing the guidelines, the superintendent shall consult with a student advisory group whose members are directly impacted by student absence rules and policies and who represent the diversity of the public school population, including diversity in gender identity, family income, race and ethnicity, and geography, among other characteristics. The advisory group must also include a member of the legislative youth advisory council appointed by the lieutenant governor.

(d) Using the definition of student absence adopted under this section, the superintendent shall establish an indicator for measuring student attendance in high schools for purposes of the PASS program under RCW 28A.175.130.

(2)(a) The K-12 data governance group under RCW 28A.300.507 shall establish the parameters and an implementation schedule for statewide collection through the comprehensive education and data research system of: (i) Student attendance data using the definitions of student absence adopted under this section; and (ii) student discipline data with a focus on suspensions and expulsions from school.

(b) Student suspension and expulsion data collected for the purposes of this subsection (2) must be:

(i) Made publicly available and easily accessible on the superintendent of public instruction's website; and

(ii) Disaggregated and cross-tabulated as established under RCW 28A.300.042.

(c) School districts must collect and submit student attendance data and student discipline data for high school students through the comprehensive education and data research system for purposes of the PASS program under RCW 28A.175.130 beginning in the 2012-13 school year.

Passed by the House February 2, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 32

[House Bill 1874]

### PROFESSIONAL LICENSURE—DISQUALIFYING CRIMINAL CONVICTIONS

AN ACT Relating to reducing barriers to professional licensure for individuals with previous arrests or criminal convictions; and amending RCW 18.400.020 and 18.400.030.

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

**Sec. 1.** RCW 18.400.020 and 2021 c 194 s 2 are each amended to read as follows:

(1) An individual who has a criminal conviction may submit to the appropriate licensing authority a preliminary application for a professional license, government certification, or state recognition of the individual's personal qualifications for a determination as to whether the individual's criminal conviction would disqualify the individual from obtaining the occupational or professional license, government certification, or state recognition of the individual's personal qualifications from that licensing authority. The preliminary application may be submitted at any time, including prior to obtaining required education or paying any fee. Only licenses, certifications, or recognitions administered by the department of licensing or a board or commission with the support of the department of licensing are eligible for a determination under this section.

(2) ~~(The preliminary application may include additional information about the individual's current circumstances, including the)~~ In making a determination under this section, the appropriate licensing authority must consider, but is not limited to, the following factors:

(a) The nature and seriousness of the offense;

(b) The relationship of the offense to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession;

(c) The age of the person at the time of the offense;

(d) The length of time elapsed since the offense(~~completion~~);

(e) Completion of the criminal sentence(~~other~~); and

(f) Other evidence of rehabilitation, treatment, testimonials, employment history, and employment aspirations.

(3) Upon receipt of a preliminary application (~~(under subsection (2) of this section)~~), the appropriate licensing authority shall make a determination of whether the individual's criminal conviction would disqualify the individual from obtaining a professional license, government certification, or state recognition of the individual's personal qualifications from that licensing authority.

(4) The licensing authority shall issue its determination in writing within two months after receiving a preliminary application (~~(under subsection (2) of this section)~~). If the licensing authority determines that the individual's criminal conviction would disqualify the individual, the licensing authority will provide a written determination that (~~includes findings of fact and conclusions of law and may advise~~):

(a) Includes the specific factors in subsection (2) of this section that the licensing authority deemed disqualifying;

(b) Advises the individual of any action the individual may take to remedy the disqualification; and

(c) Provides the earliest date the individual may reapply for a new determination.

(5) If the licensing authority finds that the individual has been convicted of a subsequent criminal conviction, or that the individual has failed to disclose a conviction, the licensing authority may rescind a determination upon finding that the subsequent criminal conviction would be disqualifying under subsection (3) of this section.

~~((5))~~ (6) The individual may appeal the determination of the licensing authority. The appeal shall be in accordance with chapter 34.05 RCW.

~~((6))~~ (7) An individual whose preliminary application has been disqualified shall not file another preliminary application under this section with the same licensing authority within two years after the final decision on the previous preliminary application, except that if the individual has taken action to remedy the disqualification as advised by the licensing board. If such action has been taken, the individual may file another preliminary application under this section with the same licensing authority six months after the final decision on the previous preliminary application.

~~((7))~~ (8) A licensing authority shall not charge a fee to a person for any preliminary application filed pursuant to this section.

**Sec. 2.** RCW 18.400.030 and 2021 c 194 s 3 are each amended to read as follows:

(1) When issuing a professional license, government certification, or state recognition, the appropriate licensing authority may not disqualify an individual based on:

(a) A conviction that has been sealed, dismissed, expunged, or pardoned; or

(b) A juvenile adjudication.

(2) The appropriate licensing authority may disqualify an individual from obtaining a professional license, government certification, or state recognition if it determines the individual's conviction is related to the occupation or profession unless the individual has requested and received a certificate of restoration of opportunity under RCW 9.97.020.

Passed by the House January 26, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 33

[House Bill 1888]

### WORKING FAMILIES' TAX CREDIT—RATES OF REMITTANCE REDUCTIONS— ADJUSTMENT

AN ACT Relating to allowing the department of revenue to adjust the rates of remittance reductions in the working families' tax credit in order to align with federal maximum qualifying income levels; and amending RCW 82.08.0206.

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

**Sec. 1.** RCW 82.08.0206 and 2021 c 195 s 2 are each amended to read as follows:

(1) A working families' tax exemption, in the form of a remittance of tax due under this chapter and chapter 82.12 RCW, is provided to eligible low-income persons for sales taxes paid under this chapter after January 1, 2022.

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

(a)(i) Except as provided in (a)(ii) of this subsection, "eligible low-income person" means an individual who:

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

(B) Properly files a federal income tax return as a Washington resident, and has been a resident of the state of Washington more than one hundred eighty days of the year for which the exemption is claimed.

(ii) "Eligible low-income person" also means an individual who:

(A) Meets the requirements provided in (a)(i)(B) of this subsection; and

(B) Would otherwise qualify for the credit provided in Title 26 U.S.C. Sec. 32 except for the fact that the individual filed a federal tax return in the prior year using a valid individual taxpayer identification number in lieu of a social security number, or the individual has a spouse or dependent without a social security number.

(b) "Income" means earned income as defined by Title 26 U.S.C. Sec. 32.

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

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

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

(3)(a) Except as provided in (b) and (c) of this subsection, for 2023 and thereafter, the working families' tax remittance amount for the prior 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) ~~((The))~~ Except as provided in (f) of this subsection, the remittance 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 remittance for an eligible person as calculated in this section is greater than one cent, but less than \$50, the remittance amount is \$50.

(d) The remittance amounts in this section shall be adjusted for inflation every year beginning January 1, 2024, based upon changes in the consumer price index during the previous calendar year.

(e) For purposes of this section, "consumer price index" means, for any calendar year, that year's average consumer price index 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 exemption shall be administered as provided in this subsection.

(a) The remittance 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.

(ii) Application for the remittance under this section must be made in the year following the year for which the federal return was filed, but in no case may any remittance be provided for any period before January 1, 2022. The department must use the eligible person's most recent federal tax filing to process the remittance.

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

(b) The department shall protect the privacy and confidentiality of personal data of remittance 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, this section.

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

(5) Receipt of the remittance 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. The department may gather necessary data through audit and other administrative records, including verification through internal revenue service data.

(7) The department must review the application and determine eligibility for the working families' tax exemption based on information provided by the applicant and through audit and other administrative records, including, when it deems it necessary, verification through internal revenue service data.

(8) If, upon review of internal revenue service data or other information obtained by the department, it appears that an individual received a remittance that the individual was not entitled to, or received a larger remittance 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 remittance in question was based on both spouses filing a joint federal income tax return for the year for which the remittance 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 may not be made due until six months after their 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 remittance 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 remittance 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 remittances provided under chapter 195, Laws of 2021.

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

Passed by the House February 8, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 34

[House Bill 1894]

## JUVENILE DIVERSION AGREEMENTS—EXTENSION

AN ACT Relating to expanding the period for juvenile diversion agreements; and amending RCW 13.40.080.

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

**Sec. 1.** RCW 13.40.080 and 2018 c 82 s 4 are each amended to read as follows:

(1) A diversion agreement shall be a contract between a juvenile accused of an offense and a diversion unit whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it. Such agreements shall be entered into as expeditiously as possible.

(2) A diversion agreement shall be limited to one or more of the following:

(a) Community restitution not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Restitution limited to the amount of actual loss incurred by any victim, excluding restitution owed to any insurance provider under Title 48 RCW;

(c) Attendance at up to ten hours of counseling and/or up to twenty hours of positive youth development, educational or informational sessions at a community agency. The educational or informational sessions may include sessions relating to respect for self, others, and authority; victim awareness; accountability; self-worth; responsibility; work ethics; good citizenship; literacy; and life skills. If an assessment identifies mental health or chemical dependency needs, a youth may access up to thirty hours of counseling. The counseling sessions may include services demonstrated to improve behavioral health and reduce recidivism. For purposes of this section, "community agency" may also mean a community-based nonprofit organization, a physician, a counselor, a school, or a treatment provider, if approved by the diversion unit. The state shall not be liable for costs resulting from the diversion unit exercising the option to permit diversion agreements to mandate attendance at up to thirty hours of counseling and/or up to twenty hours of educational or informational sessions;

(d) Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas; and

(e) Upon request of any victim or witness, requirements to refrain from any contact with victims or witnesses of offenses committed by the juvenile.

(3) Notwithstanding the provisions of subsection (2) of this section, youth courts are not limited to the conditions imposed by subsection (2) of this section in imposing sanctions on juveniles pursuant to RCW 13.40.630.

(4) In assessing periods of community restitution to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement, the court officer to whom this task is assigned shall consult with the juvenile's custodial parent or parents or guardian. To the extent possible, the court officer shall advise the victims of the juvenile offender of the diversion process, offer victim impact letter forms and restitution claim forms, and involve members of the community. Such members of the community may meet with the juvenile

and may advise the court officer as to the terms of the diversion agreement and may supervise the juvenile in carrying out its terms.

(5)(a) A diversion agreement may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the divertee.

(b) If additional time is necessary for the juvenile to complete the terms of the agreement or restitution to a victim, the time period limitations of this subsection may be extended by an additional six months at the request of the juvenile.

(c) If the juvenile has not paid the full amount of restitution by the end of the additional six-month period, then the juvenile shall be referred to the juvenile court for entry of a civil order establishing the amount of restitution still owed to the victim. In this order, the court shall also determine the terms and conditions of the restitution, including a payment plan extending up to ten years if the court determines that the juvenile does not have the means to make full restitution over a shorter period. For the purposes of this subsection (5)(c), the juvenile shall remain under the court's jurisdiction for a maximum term of ten years after the juvenile's eighteenth birthday. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may relieve the juvenile of the requirement to pay full or partial restitution if the juvenile reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a ten-year period. If the court relieves the juvenile of the requirement to pay full or partial restitution, the court may order an amount of community restitution that the court deems appropriate. The county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. A juvenile under obligation to pay restitution may petition the court for modification of the restitution order.

(d) A diversion agreement may be completed by the juvenile any time prior to an order terminating the agreement.

(6) The juvenile shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

(7) Divertees and potential divertees shall be afforded due process in all contacts with a diversion unit regardless of whether the juveniles are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written diversion agreement shall be executed stating all conditions in clearly understandable language;

(b) Violation of the terms of the agreement shall be the only grounds for termination;

(c) No divertee may be terminated from a diversion program without being given a court hearing, which hearing shall be preceded by:

(i) Written notice of alleged violations of the conditions of the diversion program; and

(ii) Disclosure of all evidence to be offered against the divertee;

(d) The hearing shall be conducted by the juvenile court and shall include:

(i) Opportunity to be heard in person and to present evidence;

(ii) The right to confront and cross-examine all adverse witnesses;



(iii) A written statement by the court as to the evidence relied on and the reasons for termination, should that be the decision; and

(iv) Demonstration by evidence that the divertee has substantially violated the terms of his or her diversion agreement;

(e) The prosecutor may file an information on the offense for which the divertee was diverted:

(i) In juvenile court if the divertee is under eighteen years of age; or

(ii) In superior court or the appropriate court of limited jurisdiction if the divertee is eighteen years of age or older.

(8) The diversion unit shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during diversion unit hearings or negotiations.

(9) The diversion unit shall be responsible for advising a divertee of his or her rights as provided in this chapter.

(10) The diversion unit may refer a juvenile to a restorative justice program, community-based counseling, or treatment programs.

(11) The right to counsel shall inure prior to the initial interview for purposes of advising the juvenile as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The juvenile shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews mean all interviews regarding the diversion agreement process.

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(8). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversion unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

(12) When a juvenile enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

(a) The fact that a charge or charges were made;

(b) The fact that a diversion agreement was entered into;

(c) The juvenile's obligations under such agreement;

(d) Whether the alleged offender performed his or her obligations under such agreement; and

(e) The facts of the alleged offense.

(13) A diversion unit may refuse to enter into a diversion agreement with a juvenile. When a diversion unit refuses to enter a diversion agreement with a juvenile, it shall immediately refer such juvenile to the court for action and shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversion unit shall also immediately refer the case to the prosecuting attorney for action if such juvenile violates the terms of the diversion agreement.

(14) A diversion unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no victim, or where it determines that the juvenile referred to it has no prior

criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a juvenile without entering into a diversion agreement. A diversion unit's authority to counsel and release a juvenile under this subsection includes the authority to refer the juvenile to community-based counseling or treatment programs or a restorative justice program. Any juvenile released under this subsection shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(8). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language. A juvenile determined to be eligible by a diversion unit for release as provided in this subsection shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

(15) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

(16) If restitution required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert unpaid restitution into community restitution. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community restitution in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

Passed by the House February 2, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 35

[Engrossed Substitute House Bill 1930]

### CERTAIN PROFESSIONS—DELAYED LICENSE RENEWALS

AN ACT Relating to license renewals for cosmetologists, hair designers, barbers, manicurists, and estheticians; amending RCW 18.16.110; 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 help resolve issues relating to professional licensing for cosmetologists, hair designers, barbers, manicurists, estheticians, master estheticians, and instructors. The COVID-19 pandemic has affected all Washingtonians in different ways, and many people licensed to instruct or practice cosmetology, hair design, barbering, manicuring, and esthetics may not have renewed their license within the one year expiration window and, as a result, had their license canceled. The

legislature intends to allow individuals whose licenses were canceled for failure to renew within the expiration period during the pandemic an opportunity to renew their license. Moving forward, the legislature intends to study barriers to maintaining a professional cosmetologist license in order to address this issue in a comprehensive way in the 2023 legislative session.

**Sec. 2.** RCW 18.16.110 and 2004 c 51 s 3 are each amended to read as follows:

(1) The director shall issue the appropriate license to any applicant who meets the requirements as outlined in this chapter.

(2) Except as provided in RCW 18.16.260:

(a) Failure to renew a license by its expiration date subjects the holder to a penalty fee and payment of each year's renewal fee, at the current rate; and

(b) A person whose license has not been renewed within one year after its expiration date shall have the license canceled and shall be required to submit an application, pay the license fee, meet current licensing requirements, and pass any applicable examination or examinations, in addition to the other requirements of this chapter, before the license may be reinstated, provided that a person whose license expired on or after March 1, 2020, may renew the license, including if the license was canceled, until June 30, 2023.

(3) In lieu of the requirements of subsection (2)(a) of this section, a license placed on inactive status under RCW 18.16.290 may be reinstated to good standing upon receipt by the department of: (a) Payment of a renewal fee, without penalty, for a two-year license commencing on the date the license is reinstated; and (b) if the license was on inactive status during any time that the board finds that a health or other requirement applicable to the license has changed, evidence showing that the holder of the license has successfully completed, from a school licensed under RCW 18.16.140, at least the number of curriculum clock hours of instruction that the board deems necessary for a licensee to be brought current with respect to such changes, but in no case may the number of hours required under this subsection exceed four hours per year that the license was on inactive status.

(4) Nothing in this section authorizes a person whose license has expired or is on inactive status to engage in a practice prohibited under RCW 18.16.060 until the license is renewed or reinstated.

(5) Upon request and payment of an additional fee to be established by rule by the director, the director shall issue a duplicate license to an applicant.

Passed by the House February 11, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 36

[Substitute House Bill 1984]

### VEHICLE REGISTRATION CERTIFICATES—PRIVACY OF ADDRESSES

AN ACT Relating to protecting privacy of addresses related to vehicle registration certificates; amending RCW 46.16A.180; adding a new section to chapter 88.02 RCW; 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 printing addresses on vehicle registrations provides an opportunity for thieves that break into vehicles to use the information for nefarious purposes that can be avoided if the address is not printed on the vehicle registration certificate.

(2) Furthermore, law enforcement agencies have access to databases that include the vehicle registrant's address so such information does not need to be printed on paper vehicle registration certificates.

(3) In order to reduce criminal opportunities, the legislature directs the department of licensing to print addresses on vehicle, trailer, and vessel registration certificates in a location that facilitates the removal of the address.

**Sec. 2.** RCW 46.16A.180 and 2013 c 157 s 3 are each amended to read as follows:

(1) A registration certificate must be:

(a) Signed by the registered owner, or if a firm or corporation, the signature of one of its officers or other authorized agent, to be valid;

(b) Carried in the vehicle for which it is issued; and

(c) Provided to law enforcement and the department by the operator of the vehicle upon demand.

(d) The registration certificate required by this section may be provided in either paper or electronic format. Acceptable electronic formats include the display of electronic images on a cellular phone or any other type of portable electronic device.

(2) It is unlawful for any person to operate or be in possession of a vehicle without carrying a registration certificate for the vehicle. Any person in charge of a vehicle shall, upon demand of any of the local authorities or of any police officer or of any representative of the department, permit an inspection of the vehicle registration certificate. This section does not apply to a vehicle for which registration is not required to be renewed annually and is a publicly owned vehicle marked as required under RCW 46.08.065.

(3) Beginning January 1, 2023, paper issued registrations certificates for vehicles or trailers must be printed to allow for the manual removal of a registrant's address, by the named registered owner, without compromising any required information on the certificate.

**NEW SECTION. Sec. 3.** A new section is added to chapter 88.02 RCW to read as follows:

Beginning January 1, 2023, paper issued registration certificates for vessels must be printed to allow for the manual removal of a registrant's address, by the named registered owner, without compromising any required information on the certificate.

Passed by the House February 13, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 37

[Substitute House Bill 2046]

## ETHICS IN PUBLIC SERVICE—CERTAIN LEGISLATIVE ACTIVITY

AN ACT Relating to ethics in public service rules governing certain legislative activity; and amending RCW 42.52.070, 42.52.160, 42.52.180, and 42.52.185.

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

**Sec. 1.** RCW 42.52.070 and 2019 c 383 s 1 are each amended to read as follows:

(1) Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

(2) For purposes of this section, and only as applied to legislators, activities within the scope of employment include but are not limited to duties enumerated in law and activities that have a tangible legislative nexus. Activities with a legislative nexus include but are not limited to:

(a) Communications directly pertaining to any legislative proposal which has been introduced in either chamber of the legislature; and

(b) Posting information to a legislator's official legislative website, including an official legislative social media account, about:

(i) Emergencies;

(ii) Federal holidays, state and legislatively recognized holidays established under RCW 1.16.050, and religious holidays;

(iii) Information originally provided or published by other government entities which provide information about government resources; and

(iv) Achievements, honors, or awards of extraordinary distinction.

(3) It is not a violation of this section for a legislator or an appropriate legislative staff designee to engage in activities listed in subsection (2) of this section.

(4) For purposes of this section, and only as applied to legislators and employees of the legislative branch, "special privileges" includes, but is not limited to, engaging in behavior that constitutes harassment. As used in this section:

(a) "Harassment" means engaging in physical, verbal, visual, or psychological conduct that:

(i) Has the purpose or effect of interfering with the person's work performance;

(ii) Creates a hostile, intimidating, or offensive work environment; or

(iii) Constitutes sexual harassment.

(b) "Sexual harassment" means unwelcome or unwanted sexual advances, requests for sexual or romantic favors, sexually motivated bullying, or other verbal, visual, physical, or psychological conduct or communication of a sexual or romantic nature, when:

(i) Submission to the conduct or communication is either explicitly or implicitly a term or condition of current or future employment;

(ii) Submission to or rejection of the conduct or communication is used as the basis of an employment decision affecting the person; or

(iii) The conduct or communication unreasonably interferes with the person's job performance or creates a work environment that is hostile, intimidating, or offensive.

**Sec. 2.** RCW 42.52.160 and 2014 c 28 s 1 are each amended to read as follows:

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

(2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties. It is not a violation of this section for a legislator or an appropriate legislative staff designee to engage in activities listed under RCW 42.52.070(2).

(3) This section does not prohibit de minimis use of state facilities to provide employees with information about (a) medical, surgical, and hospital care; (b) life insurance or accident and health disability insurance; or (c) individual retirement accounts, by any person, firm, or corporation administering such program as part of authorized payroll deductions pursuant to RCW 41.04.020.

(4) The appropriate ethics boards may adopt rules providing exceptions to this section for occasional use of the state officer or state employee, of de minimis cost and value, if the activity does not result in interference with the proper performance of public duties.

**Sec. 3.** RCW 42.52.180 and 2017 c 7 s 2 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, 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.

(4) As used in this section, "official legislative website" includes, but is not limited to, a legislator's official legislative social media accounts.

**Sec. 4.** RCW 42.52.185 and 2017 c 7 s 3 are each amended to read as follows:

(1) During the period beginning on (~~December 1st of the year before a~~) 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 ~~((as follows:~~

~~(a) The legislator may mail two mailings of newsletters to constituents. All newsletters within each mailing of newsletters must be identical as to their content but not as to the constituent name or address. Both mailings must be mailed before the first day of the declaration of candidacy filing period specified in RCW 29A.24.050.~~

~~(b) The) the legislator may, by mail or email, send an individual letter to~~ ~~((i)) (a) an individual constituent who has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office; ~~((ii)) (b) an individual constituent who holds a governmental office with jurisdiction over the subject matter of the letter; or ~~((iii)) (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(s) including, but not limited to: ~~((A)) (i) An international or national award such as the Nobel prize or the Pulitzer prize; ~~((B)) (ii) a state award such as Washington scholar; ~~((C)) (iii) an Eagle Scout award; and ~~((D)) (iv) a Medal of Honor.~~~~~~~~~~~~~~

~~((e) In those cases where constituents have specifically indicated that they would like to be contacted to receive regular or periodic updates on legislative matters or been added to a distribution list and provided regular opportunities to unsubscribe from that mailing list, legislators may provide such updates by email throughout the legislative session and up until the first day of the declaration of candidacy filing period specified in RCW 29A.24.050. Legislators may also provide these updates by email during any special legislative session.))~~

(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, for any public office(~~;-and~~). "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.

Passed by the House February 8, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.



## CHAPTER 38

[House Bill 2061]

COMMUNITY REVITALIZATION FINANCING—PUBLIC IMPROVEMENTS—  
PERMANENTLY AFFORDABLE HOUSING

AN ACT Relating to adding permanently affordable housing to the definition of public improvements; and reenacting and amending RCW 39.89.020.

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

**Sec. 1.** RCW 39.89.020 and 2020 c 280 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) "Assessed value of real property" means the valuation of real property as placed on the last completed assessment roll.

(2) "Increment area" means the geographic area from which taxes are to be appropriated to finance public improvements authorized under this chapter.

(3) "Increment value" means (~~(seventy-five)~~) 75 percent of any increase in the true and fair value of real property in an increment area that is placed on the tax rolls after the increment area is created.

(4) "Local government" means any city, town, county, port district, or any combination thereof.

(5) "Ordinance" means any appropriate method of taking legislative action by a local government.

(6) "Permanently affordable housing" means housing, regardless of ownership, for which there is a legally binding, recorded document in effect that limits the price at which the owner may sell or restricts the occupancy of the unit to a qualified, low-income household, for a period of at least (~~(forty)~~) 40 years for a property used for shelter or rental housing, or for a period of at least (~~(twenty-five)~~) 25 years for a property to be owned by a low-income household. These documents include, but are not limited to, affordability covenants, deed restrictions, and community land trust leases. Resale restrictions exercised by providers of permanently affordable housing can include, but are not limited to:

(a) Continuous ownership of land by a public entity or nonprofit housing provider with a lease allowing ownership of the structure by an income-eligible household;

(b) A nonpossessory interest or right in real property, such as a deed restriction, restrictive covenant, resale restriction(~~((f-1))~~), or other contractual agreement, that ensures affordability.

(7) "Public improvement costs" means the costs of: (a) Design, planning, acquisition, site preparation, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) purchasing, rehabilitating, retrofitting for energy efficiency, and constructing housing for the purpose of creating or preserving permanently affordable housing; (c) relocating, maintaining, and operating property pending construction of public improvements; (d) relocating utilities as a result of public improvements; (e) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; (f) assessments incurred in revaluing real

property for the purpose of determining the tax allocation base value that are in excess of costs incurred by the assessor in accordance with the revaluation plan under chapter 84.41 RCW, and the costs of apportioning the taxes and complying with this chapter and other applicable law; and (g) administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of community revitalization financing to fund the costs of the public improvements.

(8) "Public improvements" means:

(a) Infrastructure improvements within the increment area that include:

(i) Street and road construction and maintenance;

(ii) Water and sewer system construction and improvements;

(iii) Sidewalks and streetlights;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities and recreational areas; ~~((and))~~

(vii) Stormwater and drainage management systems; and

(viii) Permanently affordable housing; and

(b) Expenditures for any of the following purposes:

(i) Providing environmental analysis, professional management, planning, and promotion within the increment area, including the management and promotion of retail trade activities in the increment area;

(ii) Providing maintenance and security for common or public areas in the increment area; or

(iii) Historic preservation activities authorized under RCW 35.21.395.

(9) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (a) Regular property taxes levied by port districts or public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; and (b) regular property taxes levied by the state for the support of the common schools under RCW 84.52.065. Regular property taxes do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(10) "Tax allocation base value" means the true and fair value of real property located within an increment area for taxes imposed in the year in which the increment area is created, plus ~~((twenty-five))~~ 25 percent of any increase in the true and fair value of real property located within an increment area that is placed on the assessment rolls after the increment area is created.

(11) "Tax allocation revenues" means those tax revenues derived from the imposition of regular property taxes on the increment value and distributed to finance public improvements.

(12) "Taxing districts" means a governmental entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved increment area.

(13) "Value of taxable property" means the value of the taxable property as defined in RCW 39.36.015.

Passed by the House February 9, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 39

[Substitute House Bill 2068]

### IMAGINATION LIBRARY OF WASHINGTON PROGRAM

AN ACT Relating to creating the imagination library of Washington program; and adding a new section to chapter 43.216 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.216 RCW to read as follows:

(1) The following definitions apply to this section:

(a) "Eligible children" means children from birth to age five;

(b) "National nonprofit foundation" means a national nonprofit foundation that exists for the purpose of working with local entities to identify eligible children and mail age-appropriate, high quality books each month to those children at no cost to families; and

(c) "Program" means the imagination library of Washington program created under subsection (2) of this section.

(2) Subject to the amounts appropriated for this specific purpose, the department, in coordination with the office of the superintendent of public instruction, shall select a Washington state-based qualified 501(c)(3) nonprofit organization physically located in Washington state to create and operate the program. The nonprofit organization selected under this subsection shall:

(a) Manage the daily operations of the program;

(b) Establish affiliate programs across the state;

(c) Advance and strengthen the affiliate programs with the goal of increasing enrollment in those programs;

(d) Develop, promote, and coordinate a public awareness campaign to make donors aware of the opportunity to donate to affiliate programs and make the public aware of the opportunity to register eligible children to receive books through the program; and

(e) Contract with a national nonprofit foundation to provide age-appropriate, high quality books each month to eligible children at no cost to families.

(3)(a) By November 1, 2022, and annually thereafter, the nonprofit organization selected to operate the program under subsection (2) of this section shall submit a report to the relevant committees of the legislature and the governor describing:

(i) The number of affiliate programs established by the program;

(ii) The number of children enrolled in each affiliate program; and

(iii) The number of children statewide enrolled in the program.

(b) The report in this subsection must be submitted in compliance with RCW 43.01.036.

(4)(a) The nonprofit organization selected to operate the program under subsection (2) of this section shall provide payment to the national nonprofit foundation under subsection (2)(e) of this section that equals 50 percent of the cost to provide books to eligible children enrolled in the program.

(b) Each affiliate program shall provide payment to the program under subsection (2) of this section that equals the remaining cost to provide books to eligible children enrolled in the program.

(c) Nothing in this section requires that state funding be provided to the nonprofit organization selected under this subsection or to the program except as provided in subsection (5) of this section.

(5) The department may seek and accept gifts, grants, or endowments from public or private sources for the program and may spend any gifts, grants, or endowments or income from public or private sources on the program according to their terms.

Passed by the House February 15, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 40

[House Bill 2074]

### OFF-ROAD VEHICLE REGISTRATION—FEES—OUT-OF-STATE RESIDENTS

AN ACT Relating to fees collected from out-of-state residents who register off-road vehicles in Washington; and amending RCW 46.09.410 and 46.09.442.

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

**Sec. 1.** RCW 46.09.410 and 2021 c 216 s 3 are each amended to read as follows:

(1)(a) The application for an original ORV registration has the same requirements as described for original vehicle registrations in RCW 46.16A.040 and, except as provided in (b) of this subsection, must be accompanied by the annual off-road vehicle license fee required under RCW 46.17.350, in addition to any other fees or taxes due for the application.

(b) (~~No fee is~~) The license fee provided in RCW 46.17.350 is not required with an application for an original ORV registration, if the vehicle is also properly registered or permitted in another state to a resident of the state, and, at the time of application for an original Washington ORV registration, the resident presents the following documents issued by the other state: (i) The resident's unexpired driver's license; and (ii) the current registration or permit for the off-road vehicle.

(2)(a) The application for renewal of an ORV registration has the same requirements as described for the renewal of vehicle registrations in RCW 46.16A.110 and, except as provided in (b) of this subsection, must be accompanied by the annual off-road vehicle license fee required under RCW 46.17.350, in addition to any other fees or taxes due for the application.

(b) (~~No fee is~~) The license fee provided in RCW 46.17.350 is not required with an application for renewal of an ORV registration, if the vehicle is also properly registered or permitted in another state to a resident of the state, and, at the time of application for a renewal of a Washington ORV registration, the resident presents the following documents issued by the other state: (i) The resident's unexpired driver's license; and (ii) the current registration or permit for the off-road vehicle.

(3) The annual ORV registration is valid for one year and may be renewed each subsequent year as prescribed by the department.

(4) A person who acquires an off-road vehicle that has an ORV registration must:

(a) Apply to the department, county auditor or other agent, or subagent appointed by the director for a transfer of the ORV registration within fifteen days of taking possession of the off-road vehicle; and

(b) Pay the ORV registration transfer fee required under RCW 46.17.410, in addition to any other fees or taxes due at the time of application.

(5) The department shall issue an ORV registration, decals, and tabs upon receipt of:

(a) A properly completed application for an original ORV registration; and

(b) The payment of all fees and taxes due at the time of application.

(6) The ORV registration must be carried on the vehicle for which it was issued at all times during its operation in this state.

(7) Off-road vehicle decals must be affixed to the off-road vehicle in a manner prescribed by the department.

(8) Unless exempt under RCW 46.09.420, any out-of-state operator of an off-road vehicle, when operating in this state, must comply with this chapter. If an ORV registration is required under this chapter, the out-of-state operator must obtain an ORV registration and decal or a temporary ORV use permit.

(9) This section does not apply to wheeled all-terrain vehicles registered for use under RCW 46.09.442.

**Sec. 2.** RCW 46.09.442 and 2021 c 216 s 4 are each amended to read as follows:

(1) Any wheeled all-terrain vehicle operated within this state must display a metal tag to be affixed to the rear of the wheeled all-terrain vehicle. The initial metal tag must be issued with an original off-road vehicle registration and, except as provided in subsection (7) of this section, upon payment of the initial vehicle license fee under RCW 46.17.350(1)(s). The metal tag must be replaced every seven years at a cost of two dollars. Revenue from replacement metal tags must be deposited into the nonhighway and off-road vehicle activities program account. The department must design the metal tag, which must:

(a) Be the same size as a motorcycle license plate;

(b) Have the words "RESTRICTED VEHICLE" listed at the top of the tag;

(c) Contain designated identification through a combination of letters and numbers;

(d) Leave space at the bottom left corner of the tag for an off-road tab issued under subsection (2) of this section; and

(e) Leave space at the bottom right corner of the tag for an on-road tab, when required, issued under subsection (3) of this section.

(2) Except as provided in subsections (6)(b) and (7) of this section, a person who operates a wheeled all-terrain vehicle must have a current and proper off-road vehicle registration, with the appropriate off-road tab, and pay the annual vehicle license fee as provided in RCW 46.17.350(1)(s), which must be deposited into the nonhighway and off-road vehicle activities program account. The off-road tab must be issued annually by the department upon payment of initial and renewal vehicle license fees under RCW 46.17.350(1)(s), except as provided in subsection (7) of this section.

(3) Except as provided in subsections (6)(a) and (7) of this section, a person who operates a wheeled all-terrain vehicle upon a public roadway must have a current and proper on-road vehicle registration, with the appropriate on-road tab, which must be of a bright color that can be seen from a reasonable distance, and pay the annual vehicle license fee as provided in RCW 46.17.350(1)(r). The on-road tab must be issued annually by the department upon payment of initial and renewal vehicle license fees under RCW 46.17.350(1)(r), except as provided in subsection (7) of this section.

(4) Beginning July 1, 2017, for purposes of subsection (3) of this section, a special year tab issued pursuant to chapter 46.19 RCW to a person with a disability may be displayed on a wheeled all-terrain vehicle in lieu of an on-road tab.

(5) A wheeled all-terrain vehicle may not be registered for commercial use.

(6)(a) A wheeled all-terrain vehicle registration and a metal tag are not required under this chapter for a wheeled all-terrain vehicle that meets the definition in RCW 46.09.310(19), is owned by a resident of another state, and has a vehicle registration and metal tag or license plate issued in accordance with the laws of the other state allowing for on-road travel in that state. This exemption applies only to the extent that: (i) A similar exemption or privilege is granted under the laws of that state for wheeled all-terrain vehicles registered in Washington, and (ii) the other state has equipment requirements for on-road use that meet or exceed the requirements listed in RCW 46.09.457. The department may publish on its website a list of states that meet the exemption requirements under this subsection. The exemption in this subsection does not apply to a wheeled all-terrain vehicle owned by a resident of a state that borders Washington and that does not impose a retail sales and use tax on the sales or use of wheeled all-terrain vehicles.

(b) Off-road operation in Washington state of a wheeled all-terrain vehicle owned by a resident of another state and meeting the definition in RCW 46.09.310(19) is governed in the same manner as for other off-road vehicles under RCW 46.09.420(4).

(7)(a) ~~((No fee is))~~ The license fee provided in RCW 46.17.350 is not required with an application for an original ORV registration or the renewal of an ORV registration, if the vehicle is also properly registered or permitted in another state to a resident of the state, and, at the time of application, the resident presents the following documents issued by the other state: (i) The resident's unexpired driver's license; and (ii) the current registration or permit for the off-road vehicle.

(b) The department must issue a metal tag and either the off-road tab, on-road tab, or both, as appropriate, following the ORV registration under (a) of this subsection.

Passed by the House February 14, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 41

[Engrossed House Bill 2096]

## WORKING FAMILIES' TAX EXEMPTION—VARIOUS PROVISIONS

AN ACT Relating to the working families' tax exemption, also known as the working families tax credit; and amending RCW 82.08.0206, 82.32.050, and 82.32.290.

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

**Sec. 1.** RCW 82.08.0206 and 2021 c 195 s 2 are each amended to read as follows:

(1) A working families' tax ~~((exemption))~~ credit, in the form of a ~~((remittance))~~ refund of tax due under this chapter and chapter 82.12 RCW, is provided to eligible low-income persons for sales and use taxes paid under this chapter and chapter 82.12 RCW after January 1, 2022.

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

(a)(i) ~~((Except as provided in (a)(ii) of this subsection, "eligible"))~~ "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 ~~((as a Washington resident))~~ for the prior federal tax year, and ~~((has been a resident of the state of Washington more than one hundred eighty days of the year))~~ was a Washington resident during the year for which the ~~((exemption))~~ credit is claimed.

(ii) "Eligible low-income person" also means an individual who:

(A) Meets the requirements provided in (a)(i)(B) of this subsection; and

(B) Would otherwise qualify for the credit provided in Title 26 U.S.C. Sec. 32 of the internal revenue code except for the fact that the individual filed a federal income tax return ~~((in))~~ for the prior federal tax year using a valid individual taxpayer identification number in lieu of a social security number, ~~((or))~~ and the ((individual has a)) individual's spouse ((or dependent without)), if any, and all qualifying children, if any, have a valid individual taxpayer identification number or a social security number.

(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 the effective date of this section, or such subsequent date as the department may provide by rule consistent with the purpose of this section.

(e) "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.

(f) "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 ~~((remittance))~~ 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) The ~~((remittance))~~ 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 ~~((remittance))~~ refund for an eligible person as calculated in this section is greater than or equal to one cent, but less than \$50, the ~~((remittance))~~ refund amount is \$50.

(d) The ~~((remittance))~~ refund amounts in this section shall be adjusted for inflation every year beginning January 1, 2024, based upon changes in the consumer price index ~~((during the previous calendar year))~~ 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 \$5.00.

(e) For purposes of this section, "consumer price index" means, for any ~~((calendar year))~~ 12-month period, ~~((that year's))~~ 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.

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

(a) The ~~((remittance))~~ 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.

(ii) Application for the ~~((remittance))~~ 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 ~~((remittance))~~ 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 ~~((process))~~ calculate the ((remittance)) refund.

(iii) A person may not claim ~~((an exemption))~~ a credit on behalf of a deceased individual. No individual may claim ~~((an exemption))~~ 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 ~~((remittance))~~ 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 to administer the ~~((exemption))~~ credit on an automatic basis as soon as practicable.

(5) Receipt of the ~~((remittance))~~ 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. ~~((The department may gather necessary data through audit and other administrative records, including verification through internal revenue service data.))~~

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

(8) If, upon review of internal revenue service data or other information obtained by the department, it appears that an individual received a ~~((remittance))~~ refund that the individual was not entitled to, or received a larger ~~((remittance))~~ 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 ~~((remittance))~~ refund in question was based on both spouses filing a joint federal income tax return for the year for which the ~~((remittance))~~ 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 ~~((their))~~ 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 ((~~remittance~~)) 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 ((~~remittance~~)) 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 ((~~remittances~~)) refunds provided under ((~~chapter 195, Laws of 2021~~)) this section.

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

**Sec. 2.** RCW 82.32.050 and 2020 c 139 s 60 are each amended to read as follows:

(1) If upon examination of any returns or from other information obtained by the department it appears that a tax or penalty has been paid less than that properly due, the department shall assess against the taxpayer such additional amount found to be due and shall add thereto interest on the tax only. The department shall notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount and the additional amount shall become due and shall be paid within thirty days from the date of the notice, or within such further time as the department may provide.

(a) For tax liabilities arising before January 1, 1992, interest shall be computed at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until the earlier of December 31, 1998, or the date of payment. After December 31, 1998, the rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(b) For tax liabilities arising after December 31, 1991, the rate of interest shall be variable and computed as provided in subsection (2) of this section from the last day of the year in which the deficiency is incurred until the date of payment. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(c)(i) Except as otherwise provided in (c)(ii) of this subsection (1), interest imposed after December 31, 1998, shall be computed from the last day of the month following each calendar year included in a notice, and the last day of the month following the final month included in a notice if not the end of a calendar year, until the due date of the notice.

(ii) For interest associated with annual tax reporting periods having a due date as prescribed in RCW 82.32.045(3), interest must be computed from the last day of April immediately following each such annual reporting period included in the notice, until the due date of the notice.

(iii) If payment in full is not made by the due date of the notice, additional interest shall be computed under this subsection (1)(c) until the date of payment. The rate of interest shall be variable and computed as provided in subsection (2) of this section. The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year.

(2) For the purposes of this section, the rate of interest to be charged to the taxpayer shall be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate set for each new year shall be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. That average shall be calculated using the rates from four months: January, April, and July of the calendar year immediately preceding the new year, and October of the previous preceding year.

(3) 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 due date of any assessment or correction of an assessment for additional taxes, penalties, or interest as the department deems proper.

(4) No assessment or correction of an assessment for additional taxes, penalties, or interest due may be made by the department more than four years after the close of the tax year, except (a) against a taxpayer who has not registered as required by this chapter, (b) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (c) where a taxpayer has executed a written waiver of such limitation. The execution of a written waiver shall also extend the period for making a refund or credit as provided in RCW 82.32.060(2).

(5) For the purposes of this section, "return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department (~~(of revenue)~~) and that has a statutorily defined due date. "Return" also means an application for refund under RCW 82.08.0206.

**Sec. 3.** RCW 82.32.290 and 2013 c 309 s 2 are each amended to read as follows:

(1)(a) It is unlawful:

(i) For any person to engage in business without having obtained a certificate of registration as provided in this chapter;

(ii) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business without having obtained a certificate of registration as provided in this chapter;

(iii) For any person to tear down or remove any order or notice posted by the department in violation of this chapter;

(iv) For any person to aid or abet another in any attempt to evade the payment of any tax or any part thereof;

(v) For any purchaser to fraudulently sign or furnish to a seller documentation authorized under RCW 82.04.470 without intent to resell the property purchased or with intent to otherwise use the property in a manner inconsistent with the claimed wholesale purchase; or

(vi) For any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the department or its duly authorized agent; or to fail or refuse to permit the inspection or appraisal of any property by the department or its duly authorized agent; or to refuse to offer testimony or produce any record as required.

(b) Any person violating any of the provisions of this subsection (1) is guilty of a gross misdemeanor in accordance with chapter 9A.20 RCW.

(2)(a) It is unlawful:

(i) For any person to engage in business after revocation of a certificate of registration unless the person's certification of registration has been reinstated;

(ii) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business after revocation of a certificate of registration unless the company's certificate of registration has been reinstated; or

(iii) For any person to make any false or fraudulent return or false statement in any return, with intent to defraud the state or evade the payment of any tax or part thereof.

(b) Any person violating any of the provisions of this subsection (2) is guilty of a class C felony in accordance with chapter 9A.20 RCW.

(3) In addition to the foregoing penalties, any person who knowingly swears to or verifies any false or fraudulent return, or any return containing any false or fraudulent statement with the intent aforesaid, is guilty of the offense of perjury in the second degree((s)) and ((~~any company for which a false return, or a return containing a false statement, as aforesaid, is made,~~)) must be punished, upon conviction thereof, by a fine of not more than one thousand dollars.

(4)(a) It is unlawful for any person to knowingly sell, purchase, install, transfer, manufacture, create, design, update, repair, use, possess, or otherwise make available, in this state, any automated sales suppression device or phantom-ware. However, it is not unlawful for persons to possess or use automated sales suppression devices or phantom-ware as authorized in RCW 82.32.670(6).

(b) It is unlawful for any person who has been convicted of violating this section to engage in business, or participate in any business as an owner, officer, director, partner, trustee, member, or manager of the business, unless:

(i) All taxes, penalties, and interest lawfully due are paid;

(ii) The person pays in full all penalties and fines imposed on the person for violating this section; and

(iii) The person, if the person is engaging in business subject to tax under this title, or the business in which the person participates, enters into a written agreement with the department for the electronic monitoring of the business's sales, by a method acceptable to the department, for five years at the business's expense.

(c)(i) Any person violating the provisions of this subsection, including material breach of the monitoring agreement under (b)(iii) of this subsection, is guilty of a class C felony in accordance with chapter 9A.20 RCW and, as applicable, (c)(ii) of this subsection.

(ii) Any person violating the provisions of this subsection by furnishing an automated sales suppression device or phantom-ware to another person or by updating or repairing another person's automated sales suppression device or phantom-ware is, in addition to the punishments prescribed in chapter 9A.20 RCW, subject to a mandatory fine fixed by the court in an amount equal to the greater of ten thousand dollars, the defendant's gain from the commission of the crime, or the state's loss from the commission of the crime. For purposes of this subsection (4)(c)(ii), "loss" means the total of all taxes, penalties, and interest certified by the department to be due, as of the date of sentencing, as a result of any violation of the provisions of this subsection by a person using the

automated sales suppression device or phantom-ware obtained from, or updated or repaired by, the defendant, which results in the defendant's conviction for violating the provisions of this subsection.

(d) For the purposes of this subsection (4), the terms "manager," "member," and "officer" have the same meaning as in RCW 82.32.145.

(e) The definitions in RCW 82.32.670 apply to this subsection (4).

(5) All penalties or punishments provided in this section are in addition to all other penalties provided by law.

(6) For the purposes of this section, "return" has the same meaning as in RCW 82.32.050.

Passed by the House February 12, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 42

[Senate Bill 5489]

### BUSINESS ENTITIES—VARIOUS PROVISIONS

AN ACT Relating to business entities; and amending RCW 23B.01.400, 23B.06.230, 23B.06.400, 23B.07.020, 23B.07.070, 23B.07.200, 23B.11.010, 23B.11.030, 23B.11.050, 23B.11.060, 23B.11.090, 23B.11.100, 23B.13.020, 23B.13.200, 23B.13.210, 23B.13.220, 23B.13.230, 25.10.011, 25.10.101, 25.10.491, 25.10.496, 25.10.546, 25.10.771, 25.10.791, 25.15.006, 25.15.046, 25.15.116, 25.15.121, 25.15.131, and 25.15.441.

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

### PART I

### BUSINESS CORPORATIONS

**Sec. 101.** RCW 23B.01.400 and 2021 c 84 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(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) "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).

(21) "Governmental subdivision" includes authority, county, district, and municipality.

(22) "Governor" has the meaning given that term in RCW 23.95.105.

(23) "Includes" denotes a partial definition.

(24) "Individual" includes the estate of an incompetent or deceased individual.

(25) "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.

(26) "Means" denotes an exhaustive definition.

(27) "Notice" has the meaning provided in RCW 23B.01.410.

(28) "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.

(29) "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.

(30) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(31) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 or 15 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute.

(32) "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.

(33) "Record date" means the date (~~established under chapter 23B.07 RCW on which a corporation determines~~) fixed for determining the identity of ((its)) 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.

(34) "Registered office" means the address of the corporation's registered agent.

(35) "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.

(36) "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.

(37) "Shares" means the units into which the proprietary interests in a corporation are divided.

(38) "Social purpose" includes any general social purpose and any specific social purpose.

(39) "Social purpose corporation" means a corporation that has elected to be governed as a social purpose corporation under chapter 23B.25 RCW.

(40) "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).

(41) "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.

(42) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(43) "Subsidiary" means an entity in which the corporation has, directly or indirectly, a controlling interest.

(44) "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.



(45) "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.

(46) "Writing" or "written" means any information in the form of a document.

**Sec. 102.** RCW 23B.06.230 and 1989 c 165 s 51 are each amended to read as follows:

(1) Unless the articles of incorporation provide otherwise, shares may be issued pro rata and without consideration to the corporation's shareholders or to the shareholders of one or more classes or series. An issuance of shares under this subsection is a share dividend.

(2) Shares of one class or series may not be issued as a share dividend in respect to shares of another class or series unless (a) the articles of incorporation so authorize, (b) a majority of the votes entitled to be cast by the class or series to be issued approve the issue, or (c) there are no outstanding shares of the class or series to be issued.

(3) The board of directors may fix the record date for determining shareholders entitled to a share dividend, which date may not precede the date on which the resolution fixing the record date is approved by the board of directors. If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, the record date is the date the board of directors authorizes the share dividend.

**Sec. 103.** RCW 23B.06.400 and 2009 c 189 s 12 are each amended to read as follows:

(1) A board of directors may approve and the corporation may make distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection ~~((2))~~ (3) of this section.

(2) The board of directors may fix the record date for determining shareholders entitled to a distribution, which date may not precede the date on which the resolution fixing the record date is approved by the board of directors. If the board of directors does not fix a record date for determining shareholders entitled to a distribution, other than one involving a purchase, redemption, or other acquisition of the corporation's shares, the record date is the date the board of directors authorizes the distribution.

~~(3)~~ (3) No distribution may be made if, after giving it effect:

(a) The corporation would not be able to pay its liabilities as they become due in the usual course of business; or

(b) The corporation's total assets would be less than the sum of its total liabilities plus, unless the articles of incorporation permit otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

~~((3))~~ (4) For purposes of determinations under subsection ~~((2))~~ (3) of this section:

(a) The board of directors may base a determination that a distribution is not prohibited under subsection ~~((2))~~ (3) of this section either on financial

statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances; and

(b) Indebtedness of a corporation, including indebtedness issued as a distribution, is not considered a liability if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section.

~~((4))~~ (5) The effect of a distribution under subsection ~~((2))~~ (3) of this section is measured:

(a) In the case of a distribution of indebtedness, the terms of which provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made; or

(b) In the case of any other distribution:

(i) If the distribution is by purchase, redemption, or other acquisition of the corporation's shares, the effect of the distribution is measured as of the earlier of the date any money or other property is transferred or debt incurred by the corporation, or the date the shareholder ceases to be a shareholder with respect to the acquired shares;

(ii) If the distribution is of indebtedness other than that described in ~~((subsection 4))~~ (a) and (b)(i) of this subsection, the effect of the distribution is measured as of the date the indebtedness is distributed; and

(iii) In all other cases, the effect of the distribution is measured as of the date the distribution is approved if payment occurs within one hundred twenty days after the date of approval, or the date the payment is made if it occurs more than one hundred twenty days after the date of approval.

~~((5))~~ (6) A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section is at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent provided otherwise by agreement.

~~((6))~~ (7) In circumstances to which this section and related sections of this title are applicable, such provisions supersede the applicability of any other statutes of this state with respect to the legality of distributions.

~~((7))~~ (8) A transfer of the assets of a dissolved corporation to a trust or other successor entity of the type described in RCW 23B.14.030(4) constitutes a distribution subject to subsection ~~((2))~~ (3) of this section only when and to the extent that the trust or successor entity distributes assets to shareholders.

**Sec. 104.** RCW 23B.07.020 and 2020 c 57 s 48 are each amended to read as follows:

(1) A corporation shall hold a special meeting of shareholders:

(a) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

(b) Except as set forth in subsections (2) and (3) of this section, if shareholders holding at least ten percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting execute, date, and deliver to the corporation one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

(2) The right of shareholders of a public company to call a special meeting may be limited or denied to the extent provided in the articles of incorporation.

(3) If the corporation is other than a public company, the articles of incorporation or bylaws may require the demand specified in subsection (1)(b) of this section be made by a greater percentage, not in excess of twenty-five percent, of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting.

(4) If not otherwise fixed under RCW 23B.07.030 or 23B.07.070, the record date for determining shareholders entitled to demand a special meeting is the first date on which an executed shareholder demand is delivered to the corporation. No written demand for a special meeting will be effective unless, within 60 days after the earliest date on which a demand delivered to the corporation as required by this section was executed, written demands executed by shareholders holding at least the percentage of votes specified in subsection (1)(b) of this section or, if applicable, fixed in accordance with subsection (2) or (3) of this section, have been delivered to the corporation.

(5) Subject to subsection (6) of this section:

(a) Special shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws; and

(b) If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(6) Unless the articles of incorporation or bylaws provide otherwise, if the board of directors or another person is authorized in the bylaws to determine the place of special meetings, the board of directors or such other person may, in the sole discretion of the board of directors or such other person, determine that a special meeting will not involve a physical assembly of shareholders at a particular geographic location, but instead will be held solely by means of remote communication, in accordance with RCW 23B.07.080.

(7) Only business within the purpose or purposes described in the meeting notice required by RCW 23B.07.050(3) may be conducted at a special shareholders' meeting.

**Sec. 105.** RCW 23B.07.070 and 2009 c 189 s 16 are each amended to read as follows:

(1) The bylaws may fix or provide the manner of fixing the record date for one or more voting groups in order to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to approve any other corporate action. If the bylaws do not fix or provide for fixing a record date, the board of directors of the corporation may fix ~~((a future date as))~~ the record date, which date may not precede the date on which the resolution fixing the record date is approved.

(2) If not otherwise fixed under subsection (1) of this section or RCW 23B.07.030, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders' meeting is the day before the first notice is delivered to shareholders.

~~(3) ((If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, it is the date the board of directors authorizes the share dividend.~~

~~(4) If the board of directors does not fix the record date for determining shareholders entitled to a distribution, other than one involving a purchase,~~

~~redemption, or other acquisition of the corporation's shares, it is the date the board of directors authorizes the distribution.~~

~~(5))~~ A record date fixed under this section may not be more than seventy days before the meeting of shareholders or more than ten days prior to the date on which the first shareholder consent is executed under RCW 23B.07.040(1)(b).

~~((6))~~ (4) A determination of shareholders entitled to notice of or to vote at a shareholders' meeting is effective for any adjournment of the meeting unless the board of directors fixes a new record date, which it must do if the meeting is adjourned to a date more than one hundred twenty days after the date fixed for the original meeting.

~~((7))~~ (5) If a court orders a meeting adjourned to a date more than one hundred twenty days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date.

**Sec. 106.** RCW 23B.07.200 and 2020 c 57 s 52 are each amended to read as follows:

(1) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders on the record date who are entitled to notice of a shareholders' meeting. The list must be arranged by voting group, and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder. Nothing contained in this section requires the corporation to include on such list the electronic mail address or other electronic contact information of a shareholder.

(2) The shareholders' list must be available for inspection by any shareholder, beginning ten days prior to the meeting and continuing through the meeting~~((:))~~ either: (a) On a reasonably accessible electronic network, on condition that the information necessary to gain access to the list is provided in or accompanies the notice of the meeting; or (b) at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. If the corporation elects to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to shareholders or their agents or attorneys. A shareholder, the shareholder's agent, or the shareholder's attorney is entitled to inspect the list, during regular business hours and at the shareholder's expense, during the period it is available for inspection.

(3) The corporation ~~((shall))~~ must make the shareholders' list available at the meeting, and any shareholder, the shareholder's agent, or the shareholder's attorney is entitled to inspect the list at any time during the meeting or any adjournment. If the meeting is held solely by means of remote communication in accordance with RCW 23B.07.010(4) or 23B.07.020(6), then the list must be available for inspection by any shareholder, the shareholder's agent, or the shareholder's attorney during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access the list must be provided with the notice of the meeting.

(4) If the corporation refuses to allow a shareholder, the shareholder's agent, or the shareholder's attorney to inspect the shareholders' list before or at the meeting, the superior court of the county where a corporation's principal office, or, if none in this state, its registered office, is located, on application of the shareholder, may summarily order the inspection at the corporation's expense

and may postpone the meeting for which the list was prepared until the inspection is complete.

(5) A shareholder's right to copy the shareholders' list, and a shareholder's right to otherwise inspect and copy the record of shareholders, is governed by RCW 23B.16.020(3).

(6) Refusal or failure to prepare or make available the shareholders' list does not affect the validity of corporate action approved at the meeting.

**Sec. 107.** RCW 23B.11.010 and 2020 c 194 s 11 are each amended to read as follows:

(1) One or more corporations may merge into another corporation if the board of directors of each corporation adopts and its shareholders, if required by RCW 23B.11.030, approve a plan of merger.

(2) The plan of merger must include:

(a) The name of each corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge;

(b) The terms and conditions of the merger; and

(c) The manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property in whole or part, or of canceling some or all of such shares.

(3) The plan of merger may include:

(a) Amendments to the articles of incorporation of the surviving corporation, or a restatement that includes one or more amendments to the surviving corporation's articles of incorporation; and

(b) Other provisions relating to the merger.

(4) The 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).

**Sec. 108.** RCW 23B.11.030 and 2011 c 328 s 6 are each amended to read as follows:

(1) After adopting a plan of merger or share exchange, the board of directors of each corporation party to the merger, and the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan of merger, except as provided in subsection (7) of this section, or share exchange for approval by its shareholders.

(2) For a plan of merger or share exchange to be approved:

(a) The board of directors must recommend the plan of merger or share exchange to the shareholders unless (i) the board of directors determines that because of conflict 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

(b) The shareholders entitled to vote must approve the plan, except as provided in subsection (7) of this section.

(3) The board of directors may condition its submission of the proposed plan of merger or share exchange 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 plan of merger or share exchange.

(4) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with RCW 23B.07.050. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger or share exchange and must contain or be accompanied by a copy ~~((or summary))~~ 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.

(5) In addition to any other voting conditions imposed by the board of directors under subsection (3) of this section, the plan of merger must be approved by two-thirds of the voting group comprising all the votes entitled to be cast on the plan, and of each other voting group entitled under RCW 23B.11.035 or the articles of incorporation to vote separately on the plan, unless shareholder approval is not required under subsection (7) of this section. The articles of incorporation may require a greater or lesser vote 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 merger and of each other voting group entitled to vote separately on the plan. Separate voting by additional voting groups is required on a plan of merger under the circumstances described in RCW 23B.11.035.

(6) In addition to any other voting conditions imposed by the board of directors under subsection (3) of this section, the plan of share exchange must be approved by two-thirds of the voting group comprising all the votes entitled to be cast on the plan, and of each other voting group entitled under RCW 23B.11.035 or the articles of incorporation to vote separately on the plan. The articles of incorporation may require a greater or lesser vote 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 share exchange and of each other voting group entitled to vote separately on the plan. Separate voting by additional voting groups is required on a plan of share exchange under the circumstances described in RCW 23B.11.035.

(7) Approval by the shareholders of the surviving corporation on a plan of merger is not required if:

(a) The articles of incorporation of the surviving corporation will not differ, except for amendments enumerated in RCW 23B.10.020, from its articles of incorporation before the merger;

(b) Each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after the merger;

(c) The number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not exceed the total number of voting shares of the surviving corporation authorized by its articles of incorporation immediately before the merger; and

(d) The number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the

exercise of rights and warrants issued pursuant to the merger, will not exceed the total number of participating shares authorized by its articles of incorporation immediately before the merger.

(8) As used in subsection (7) of this section:

(a) "Participating shares" means shares that entitle their holders to participate without limitation in distributions.

(b) "Voting shares" means shares that entitle their holders to vote unconditionally in elections of directors.

(9) Unless the articles of incorporation provide otherwise, approval by the shareholders of a public company is not required for a plan of merger if:

(a) The plan of merger expressly: (i) Permits or requires the merger to be effected under this subsection; and (ii) provides that, if the merger is to be effected under this subsection, the merger will be effected as soon as practicable following the satisfaction of the requirements of (f) of this subsection;

(b) Another party to the merger or a parent of another party to the merger makes an offer to purchase, on the terms stated in the plan of merger, any and all of the outstanding shares of the corporation that, absent this subsection, would be entitled to vote on the plan of merger, 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 states that the merger 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 other interests in that offeror, parent, or subsidiary, are collectively entitled to cast at least the minimum number of votes on the merger that, absent this subsection, would be required by this chapter for the approval of the merger by the shareholders entitled to vote on the merger at a meeting at which all shares entitled to vote on the approval were present and voted;

(g) The offeror or a wholly owned subsidiary of the offeror merges with or into 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, the same amount and kind of securities, eligible 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 (9)(h).

(10) As used in subsection (9) of this section:

(a) "Offer" means the offer referred to in subsection (9)(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 other 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 earlier 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 other interests.

(11) After a merger or share exchange is approved, and at any time before articles of merger or share exchange are filed, the planned merger or share exchange may be abandoned, subject to any contractual rights, without further shareholder approval, in accordance with the procedure set forth in the plan of merger or share exchange or, if none is set forth, in the manner determined by the board of directors.

**Sec. 109.** RCW 23B.11.050 and 1989 c 165 s 135 are each amended to read as follows:

(1) After a plan of merger (~~(or share exchange)~~) is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving (~~(or acquiring corporation)~~) entity shall deliver to the secretary of state for filing articles of merger (~~(or share exchange setting forth)~~) stating:

~~((1))~~ (a) The (~~(plan of merger or share exchange)~~) name and jurisdiction of organization of each party to the merger;

(b) The name and jurisdiction of organization of the surviving entity;

(c) 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 the surviving entity's articles of incorporation or the amended and restated articles of incorporation of the surviving entity;

~~((2))~~ (d) If shareholder approval of any domestic corporation party to the merger was not required, a statement to that effect; (~~or~~

~~(3))~~ (e) If approval of the shareholders of one or more domestic corporations party to the merger (~~(or share exchange)~~) was required, a statement that the merger (~~(or share exchange)~~) was duly approved by the shareholders of such domestic corporation pursuant to RCW 23B.11.030; and

(f) If approval of the shareholders of one or more other entities party to the merger was required, a statement that the merger was duly approved by the



interest holders of such other entity in accordance with the organic law of such other entity.

(2) After a plan of share exchange has been approved by the shareholders of the corporation whose shares will be acquired in the share exchange, the acquiring corporation shall deliver to the secretary of state for filing articles of share exchange, executed by the acquiring corporation and the corporation whose shares will be acquired in the share exchange, stating:

(a) The name of the corporation whose shares will be acquired in the share exchange;

(b) The name of the acquiring corporation; and

(c) A statement that the plan of share exchange was duly approved by the shareholders of the corporation whose shares will be acquired in the share exchange pursuant to RCW 23B.11.030.

(3) The definitions in RCW 23B.09.005 apply to this section unless the context clearly requires otherwise.

**Sec. 110.** RCW 23B.11.060 and 1989 c 165 s 136 are each amended to read as follows:

(1) When a merger takes effect:

(a) Every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases;

(b) The title to all real estate and other property owned by each corporation party to the merger is vested in the surviving corporation without reversion or impairment;

(c) The surviving corporation has all liabilities of each corporation party to the merger;

(d) A proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased;

(e) The articles of incorporation of the surviving corporation are amended, or amended and restated, to the extent provided in the ~~((plan))~~ articles of merger; and

(f) The former holders of the shares of every corporation party to the merger are entitled only to the rights provided in the articles of merger or to their rights under chapter 23B.13 RCW.

(2) When a share exchange takes effect, the shares of each acquired corporation are exchanged as provided in the plan, and the former holders of the shares are entitled only to the exchange rights provided in the articles of share exchange or to their rights under chapter 23B.13 RCW.

**Sec. 111.** RCW 23B.11.090 and 2015 c 188 s 111 are each amended to read as follows:

After a plan of merger for one or more corporations and one or more limited partnerships, one or more partnerships, or one or more limited liability companies is approved by the shareholders of each corporation (or adopted by the board of directors of any corporation for which shareholder approval is not required), is approved by the partners for each limited partnership as required by RCW 25.10.781, is approved by the partners of each partnership as required by

RCW 25.05.380, or is approved by the members of each limited liability company as required by RCW 25.15.421, the surviving entity must:

(1) If the surviving entity is a corporation, file with the secretary of state articles of merger setting forth:

(a) ~~The ((plan of merger))~~ name and jurisdiction of organization of each party to the merger;

(b) The name of the surviving corporation;

(c) If the surviving corporation's articles of incorporation are amended or amended and restated, the amendments to the surviving corporation's articles of incorporation or the amended and restated articles of incorporation of the surviving corporation;

~~((b))~~ (d) A statement that the merger was duly approved by the shareholders of each corporation that is a party to the merger pursuant to RCW 23B.11.030 (or a statement that shareholder approval was not required for a merging corporation); and

~~((e))~~ (e) A statement that the merger was duly approved ~~((by the partners of each limited partnership pursuant to RCW 25.10.781))~~ as required by the organic law of each other party that is a party to the merger.

(2) If the surviving entity is a limited partnership, comply with the requirements in RCW 25.10.786.

(3) If the surviving entity is a partnership, comply with the requirements in RCW 25.05.380.

(4) If the surviving entity is a limited liability company, comply with the requirements in RCW 25.15.426.

(5) The definitions in RCW 23B.09.005 apply to this section unless the context clearly requires otherwise.

**Sec. 112.** RCW 23B.11.100 and 1998 c 103 s 1312 are each amended to read as follows:

~~(1)~~ (1) When a merger of one or more corporations~~((;))~~ or one or more ((limited partnerships, one or more partnerships, or one or more limited liability companies)) other entities takes effect, and a corporation is the surviving entity:

~~((1))~~ (a) Every other corporation~~((;))~~ and every ((limited partnership, every partnership, and every limited liability company)) other entity party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation, and every ~~((limited partnership, partnership, and limited liability company))~~ other entity, ceases;

~~((2))~~ (b) The title to all real estate and other property owned by each ~~((corporation, limited partnership, partnership, and limited liability company))~~ entity party to the merger is vested in the surviving corporation without reversion or impairment;

~~((3))~~ (c) The surviving corporation has all the liabilities of each ~~((corporation, limited partnership, partnership, and limited liability company))~~ entity party to the merger;

~~((4))~~ (d) A proceeding pending against any ~~((corporation, limited partnership, partnership, or limited liability company))~~ entity party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the ~~((corporation, limited partnership, partnership, or limited liability company))~~ entity whose existence ceased;

~~((5))~~ (e) The articles of incorporation of the surviving corporation are amended, or amended and restated, to the extent provided in the ~~((plan))~~ articles of merger;

~~((6))~~ (f) The former holders of the shares of every corporation party to the merger are entitled only to the rights provided in the plan of merger or to their rights under chapter 23B.13 RCW; and

~~((7))~~ (g) The former interest holders of ~~((partnership interests of))~~ every ~~((limited partnership or partnership party to the merger and the former holders of member interests of every limited liability company))~~ other entity party to the merger are entitled only to the rights provided in the plan of merger or to their rights under ~~((chapter 25.10 RCW))~~ the organic law of that other entity.

(2) The definitions in RCW 23B.09.005 apply to this section unless the context clearly requires otherwise.

**Sec. 113.** RCW 23B.13.020 and 2017 c 28 s 14 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;

(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. 114.** RCW 23B.13.200 and 2009 c 189 s 42 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), the offer made pursuant to RCW 23B.11.030(9) 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. 115.** RCW 23B.13.210 and 2020 c 57 s 69 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), 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) 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.

~~((3))~~ (4) A shareholder who does not satisfy the requirements of subsection (1) ~~((or))~~, (2), or (3) of this section is not entitled to payment for the shareholder's shares under this chapter.

**Sec. 116.** RCW 23B.13.220 and 2013 c 97 s 2 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 ~~((5))~~ (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), 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~~((2))~~ (3) shall comply with subsection ~~((5))~~ (6) of this section.

~~((3))~~ (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 ~~((5))~~ (6) of this section.

~~((4))~~ (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 ~~((5))~~ (6) of this section.

~~((5))~~ (6) Any notice under subsection (1), (2), (3), ~~((or))~~ (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)~~) (4), or (5) of this section is delivered; and

(e) Be accompanied by a copy of this chapter.

**Sec. 117.** RCW 23B.13.230 and 2013 c 97 s 3 are each amended to read as follows:

(1) A shareholder sent a notice described in RCW 23B.13.220 must demand payment, certify whether the shareholder acquired beneficial ownership of the shares before the date required to be set forth in the notice pursuant to RCW 23B.13.220(~~((5))~~) (6)(c), and deposit the shareholder's certificates, all in accordance with the terms of the notice.

(2) The shareholder who demands payment and deposits the shareholder's share certificates under subsection (1) of this section retains all other rights of a shareholder until the proposed corporate action is effected.

(3) A shareholder who does not demand payment or deposit the shareholder's share certificates where required, each by the date set in the notice, is not entitled to payment for the shareholder's shares under this chapter.

## PART II

### LIMITED PARTNERSHIPS

**Sec. 201.** RCW 25.10.011 and 2020 c 57 s 81 are each amended to read as follows:

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

(1) "Certificate of limited partnership" means the certificate required by RCW 25.10.201, including the certificate as amended or restated.

(2) "Contribution," except in the term "right of contribution," means any benefit provided by a person to a limited partnership in order to become a partner or in the person's capacity as a partner.

(3) "Debtor in bankruptcy" means a person that is the subject of:

(a) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

(b) A comparable order under federal, state, or foreign law governing insolvency.

(4) "Designated office" means the principal office indicated in the limited partnership's most recent annual report, or, if the principal office is not located within this state, the office of the limited partnership's registered agent.

(5) "Distribution" means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee.

(6) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to RCW 25.10.401(3).

(7) "Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than this state and required by those laws to have one or more general partners and one or more limited partners. "Foreign limited partnership" includes a foreign limited liability limited partnership.

(8) "General partner" means:

(a) With respect to a limited partnership, a person that:

(i) Becomes a general partner under RCW 25.10.371; or

(ii) Was a general partner in a limited partnership when the limited partnership became subject to this chapter under RCW 25.10.911 (1) or (2); and

(b) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership.

(9) "Limited liability limited partnership," except in the term "foreign limited liability limited partnership," means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.

(10) "Limited partner" means:

(a) With respect to a limited partnership, a person that:

(i) Becomes a limited partner under RCW 25.10.301; or

(ii) Was a limited partner in a limited partnership when the limited partnership became subject to this chapter under RCW 25.10.911 (1) or (2); and

(b) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

(11) "Limited partnership," except in the terms "foreign limited partnership" and "foreign limited liability limited partnership," means an entity, having one or more general partners and one or more limited partners, that is formed under this chapter by two or more persons or becomes subject to this chapter under article 11 of this chapter or RCW 25.10.911 (1) or (2). "Limited partnership" includes a limited liability limited partnership.

(12) "Partner" means a limited partner or general partner.

(13) "Partnership agreement" means the partners' agreement, whether oral, implied, in a record, or in any combination, concerning the limited partnership. "Partnership agreement" includes the agreement as amended or restated.

(14) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; (~~(public corporation,)~~) or any other legal or commercial entity.

(15) "Person dissociated as a general partner" means a person dissociated as a general partner of a limited partnership.

(16) "Principal office" means the office where the principal executive office of a limited partnership or foreign limited partnership is located, whether or not the office is located in this state.

(17) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(18) "Required information" means the information that a limited partnership is required to maintain under RCW 25.10.091.

(19) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol;

(b) To attach to or logically associate with the record an electronic symbol, sound, or process; or

(c) With respect to a record to be filed with the secretary of state, to comply with the standard for filing with the office of the secretary of state as prescribed by the secretary of state.

(20) "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.

(21) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

(22) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.

(23) "Transferable interest" means a partner's right to receive distributions.

(24) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

**Sec. 202.** RCW 25.10.101 and 2009 c 188 s 112 are each amended to read as follows:

A partner may lend money to and transact other business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect to the loan or other transaction as a person that is not a partner.

**Sec. 203.** RCW 25.10.491 and 2009 c 188 s 507 are each amended to read as follows:

When a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution. However, the limited partnership's obligation to make a distribution is subject to offset for any amount (~~(owed)~~) due and payable to the limited partnership by the partner or dissociated partner on whose account the distribution is made.

**Sec. 204.** RCW 25.10.496 and 2009 c 188 s 508 are each amended to read as follows:

(1) A limited partnership may not make a distribution in violation of the partnership agreement.

(2) A limited partnership may not make a distribution (~~(if after)~~) to the extent that at the time of the distribution, after giving effect to the distribution:

(a) The limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities; or

(b) The limited partnership's total assets would be less than the sum of its total liabilities other than liabilities to partners on account of their partnership interests and liabilities for which recourse of creditors is limited to specified property of the limited partnership, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be



included in the assets of the limited partnership only to the extent that the fair value of that property exceeds that liability.

(3) A limited partnership may base a determination that a distribution is not prohibited under subsection (2) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(4) Except as otherwise provided in subsection (7) of this section, the effect of a distribution under subsection (2) of this section is measured:

(a) In the case of distribution by purchase, redemption, or other acquisition of a transferable interest in the limited partnership, as of the date money or other property is transferred or debt incurred by the limited partnership; and

(b) In all other cases, as of the date:

(i) The distribution is authorized, if the payment occurs within one hundred twenty days after that date; or

(ii) The payment is made, if payment occurs more than one hundred twenty days after the distribution is authorized.

(5) A limited partnership's indebtedness to a partner incurred by reason of a distribution made in accordance with this section is at parity with the limited partnership's indebtedness to its general, unsecured creditors.

(6) A limited partnership's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not considered a liability for purposes of subsection (2) of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could then be made to partners under this section.

(7) ~~((If indebtedness is issued as))~~ The effect of a distribution of indebtedness under subsection (2) of this section is measured:

(a) In the case of a distribution of indebtedness described in subsection (6) of this section, each payment of principal or interest ((on the indebtedness)) is treated as a distribution, the effect of which is measured on the date the payment is actually made; and

(b) In the case of a distribution of any other indebtedness, the effect of the distribution is measured as of the date the indebtedness is distributed.

**Sec. 205.** RCW 25.10.546 and 2009 c 188 s 701 are each amended to read as follows:

The only interest of a partner that is transferable is the partner's transferable interest. A transferable interest is personal property. A partner has no interest in specific partnership property.

**Sec. 206.** RCW 25.10.771 and 2015 c 176 s 6127 are each amended to read as follows:

(1) An organization that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion.

(2) When a conversion takes effect:

(a) ~~((AH))~~ The title to all real estate and other property owned by the converting organization remains vested in the converted organization without reversion or impairment;

(b) All debts, liabilities, and other obligations of the converting organization continue as obligations of the converted organization;

(c) An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred;

(d) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization;

(e) Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and

(f) Except as otherwise agreed, the conversion does not dissolve a converting limited partnership for the purposes of article 8 of this chapter.

(3) A converted organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by the converting limited partnership, if before the conversion the converting limited partnership was subject to suit in this state on the obligation. A converted organization that is a foreign organization and not registered to transact business in this state may be served with process pursuant to RCW 23.95.450 for purposes of enforcing an obligation under this subsection.

**Sec. 207.** RCW 25.10.791 and 2015 c 176 s 6129 are each amended to read as follows:

(1) When a merger becomes effective:

(a) The surviving organization continues;

(b) Each constituent organization that merges into the surviving organization ceases to exist as a separate entity;

(c) ~~((AH))~~ The title to all real estate and other property owned by each constituent organization that ceases to exist vests in the surviving organization without reversion or impairment;

(d) All debts, liabilities, and other obligations of each constituent organization that ceases to exist continue as obligations of the surviving organization;

(e) An action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not occurred;

(f) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization;

(g) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;

(h) Except as otherwise agreed, if a constituent limited partnership ceases to exist, the merger does not dissolve the limited partnership for the purposes of article 8 of this chapter; and

(i) Any amendments provided for in the articles of merger for the organizational document that created the surviving organization become effective.

(2) A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by a constituent organization, if before the merger the constituent organization was subject to suit in this state on the obligation. A surviving organization that is a foreign organization and not registered to transact business in this state may be served with process pursuant to RCW 23.95.450 for the purposes of enforcing an obligation under this subsection.

**PART III**  
**LIMITED LIABILITY COMPANIES**

**Sec. 301.** RCW 25.15.006 and 2020 c 57 s 82 are each amended to read as follows:

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

(1) "Agreed value" means the value of the contributions made by a member to the limited liability company. Such value shall equal the amount agreed upon in a limited liability company agreement or, if no value is agreed upon, the value shall be determined based on the records of the limited liability company.

(2) "Certificate of formation" means the certificate of formation required by RCW 25.15.071 and such certificate as amended or restated.

(3) "Distribution" means a transfer of money or other property from a limited liability company to a member in the member's capacity as a member or to a transferee on account of a transferable interest owned by the transferee.

(4) "Execute," "executes," or "executed" means with present intent to authenticate or adopt a record:

(a) To sign or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(5) "Foreign limited liability company" means an unincorporated entity formed under the law of a jurisdiction other than this state and denominated by that law as a limited liability company.

(6) "Foreign professional limited liability company" means a foreign limited liability company formed for the purpose of rendering professional services.

(7) "Limited liability company" or "domestic limited liability company" means a limited liability company having one or more members or transferees that is formed under this chapter.

~~((7))~~ (8) "Limited liability company agreement" means the agreement, including the agreement as amended or restated, whether oral, implied, in a record, or in any combination, of the member or members of a limited liability company concerning the affairs of the limited liability company and the conduct of its business.

~~((8))~~ (9) "Manager" means a person, or a board, committee, or other group of persons, named as a manager of a limited liability company in, or designated as a manager of a limited liability company pursuant to, a limited liability company agreement.

~~((9))~~ (10) "Manager-managed" means, with respect to a limited liability company, that the limited liability company agreement vests management of the limited liability company in one or more managers.

~~((10))~~ (11) "Member" means a person who has been admitted to a limited liability company as a member as provided in RCW 25.15.116 and who has not been dissociated from the limited liability company.

~~((11))~~ (12) "Member-managed" means, with respect to a limited liability company, that the limited liability company is not manager-managed.

~~((12))~~ (13) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

~~((13))~~ (14) "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 limited liability company are located.

~~((14))~~ (15) "Professional limited liability company" means a limited liability company that is formed in accordance with RCW 25.15.046 for the purpose of rendering professional service.

~~((15))~~ (16) "Professional service" means the same as defined under RCW 18.100.030.

~~((16))~~ (17) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~((17))~~ (18) "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.

~~((18))~~ (19) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

~~((19))~~ (20) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, gift, and transfer by operation of law, except as otherwise provided in RCW 25.15.251(6).

~~((20))~~ (21) "Transferable interest" means a member's or transferee's right to receive distributions of the limited liability company's assets.

~~((21))~~ (22) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

(23) "Withdraw" or "withdrawal" means, with respect to a member of a limited liability company or a holder of a transferable interest in a limited liability company, that the member or holder of the transferable interest provides written notice to the limited liability company of its intent to surrender all of its transferable interest and rights as a member to the limited liability company. A withdrawal is effective as of the later of the date the limited liability company receives the written notice of withdrawal or the date specified in such notice.

**Sec. 302.** RCW 25.15.046 and 2015 c 176 s 7105 are each amended to read as follows:

(1) A person or group of persons duly licensed or otherwise legally authorized to render the same professional services within this state may form and become a member or members of a professional limited liability company under the provisions of this chapter for the purposes of rendering professional service.

(2) A professional limited liability company is subject to all the provisions of chapter 18.100 RCW that apply to a professional corporation. A professional limited liability company's managers, members, agents, and employees are subject to all the provisions of chapter 18.100 RCW that apply to the directors, officers, shareholders, agents, or employees of a professional corporation, except as provided otherwise in this section and RCW 25.15.048.

(3) If the limited liability company's members are required to be licensed to practice such profession, and the limited liability company fails to maintain for itself and for its members practicing in this state a policy of professional liability insurance, bond, or other evidence of financial responsibility of a kind

designated by rule by the state insurance commissioner and in the amount of at least one million dollars or a greater amount as the state insurance commissioner may establish by rule for a licensed profession or for any specialty within a profession, taking into account the nature and size of the business, then the limited liability company's members are personally liable to the extent that, had the insurance, bond, or other evidence of responsibility been maintained, it would have covered the liability in question.

(4) For purposes of applying chapter 18.100 RCW to a professional limited liability company, the terms "director" or "officer" means manager, "shareholder" means member, "corporation" means professional limited liability company, "articles of incorporation" means certificate of formation, "shares" or "capital stock" means a limited liability company interest, "incorporator" means the person who executes the certificate of formation, and "bylaws" means the limited liability company agreement.

(5) The name of a professional limited liability company must comply with RCW 23.95.305.

(6) Subject to Article VII of this chapter, the following may be a member of a professional limited liability company and may be the transferee of the interest of an ineligible person or deceased member of the professional limited liability company:

(a) A professional corporation, if its shareholders, directors, and its officers, other than the secretary and the treasurer, are licensed or otherwise legally authorized to render the same specific professional services as the professional limited liability company; ~~(and)~~

(b) Another professional limited liability company, if the managers and members of both professional limited liability companies are licensed or otherwise legally authorized to render the same specific professional services; and

(c) A foreign professional limited liability company, if the managers and members of the foreign professional limited liability company are duly licensed or otherwise legally authorized to render the same specific professional services in any jurisdiction other than this state as the managers and members of the professional limited liability company.

(7) Formation of a limited liability company under this section does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or any applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential.

**Sec. 303.** RCW 25.15.116 and 2015 c 188 s 25 are each amended to read as follows:

(1) In connection with the admission of the initial member or members of a limited liability company, a person acquiring a limited liability company interest is admitted as a member of the limited liability company upon the later to occur of:

(a) The formation of the limited liability company; or

(b) The time provided in the limited liability company agreement or, if the limited liability company agreement does not so provide or does not exist, when the person's admission is reflected in the records of the limited liability company.

(2) After the admission of the initial member or members of a limited liability company, a person acquiring a limited liability company interest is admitted as a member of the limited liability company:

(a) In the case of a person acquiring a limited liability company interest directly from the limited liability company, at the time provided in the limited liability company agreement or, if the limited liability company agreement does not so provide or does not exist, upon the consent of all members and when the person's admission is reflected in the records of the limited liability company;

(b) In the case of a transferee of a limited liability company interest, upon compliance with any procedure for admission provided in the limited liability company agreement or, if the limited liability company agreement does not so provide or does not exist, upon the consent of all members and when the person's admission is reflected in the records of the limited liability company agreement;  
(~~(c)~~)

(c) In the case of a person being admitted as a member of a surviving or resulting limited liability company pursuant to a merger or conversion approved in accordance with this chapter, as provided in the limited liability company agreement of the surviving or resulting limited liability company or in the agreement of merger or plan of merger or conversion, and in the event of any inconsistency, the terms of the agreement of merger or plan of merger or conversion control; and in the case of a person being admitted as a member of a limited liability company pursuant to a merger or conversion in which such limited liability company is not the surviving or resulting limited liability company in the merger or conversion, as provided in the limited liability company agreement of such limited liability company; or

(d) In the case of a transferee acquiring all of the transferor's limited liability company interest from a transferor that is the only member of the limited liability company, upon the effectiveness of the transfer.

(3) A person may be admitted as a member of a limited liability company without acquiring a transferable interest and without making or being obligated to make a contribution to the limited liability company.

**Sec. 304.** RCW 25.15.121 and 2015 c 188 s 26 are each amended to read as follows:

(1) Except as otherwise provided by this chapter, the affirmative vote, approval, or consent of a majority of the members is necessary for actions requiring member approval.

(2) The affirmative vote, approval, or consent of all members is required to:

(a) Amend the certificate of formation, except as provided in RCW 25.15.076(2);

(b) Amend the limited liability company agreement;

(c) Authorize a manager, member, or other person to do any act on behalf of the limited liability company that contravenes the limited liability company agreement, including any provision that expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof;

(d) Admit as a member of the limited liability company a person acquiring a limited liability company interest directly from the limited liability company as provided in RCW 25.15.116(2)(a);

(e) Admit as a member of the limited liability company a transferee of a limited liability company interest as provided in RCW 25.15.116(2)(b);

(f) Authorize a member's removal as a member of the limited liability company as provided in RCW 25.15.131(1)(e);

(g) Waive a member's dissociation as a member of the limited liability company as provided in RCW 25.15.131(1) (f), (g), or (h);

~~(h) ((Authorize the withdrawal of a member from the limited liability company as provided in RCW 25.15.131(2);~~

~~(i))~~ Compromise any member's obligation to make a contribution or return cash or other property paid or distributed to the member in violation of this chapter as provided in RCW 25.15.196(2);

~~((i))~~ (i) Amend the certificate of formation and extend the date of dissolution, if a dissolution date is specified in the certificate of formation, as provided in RCW 25.15.265(1);

~~((k))~~ (i) Dissolve the limited liability company as provided in RCW 25.15.265(3);

(k) Approve a plan of conversion as provided in RCW 25.15.441(1);

(l) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited liability company's property, other than in the ordinary course of the limited liability company's activities or activities of the kind carried on by the limited liability company; or

(m) Undertake any other act outside the ordinary course of the limited liability company's activities.

(3) A limited liability company agreement may provide for classes or groups of members having such relative rights, powers, and duties as the limited liability company agreement may provide, and may make provision for the future creation in the manner provided in the limited liability company agreement of additional classes or groups of members having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of members. A limited liability company agreement may provide for the taking of an action, including the amendment of the limited liability company agreement, without the vote or approval of any member or class or group of members, including an action to create under the provisions of the limited liability company agreement a class or group of limited liability company interests that was not previously outstanding. A limited liability company agreement may provide that any member or class or group of members do not have voting rights.

(4) A limited liability company agreement may grant to all or certain identified members or a specified class or group of the members the right to vote separately or with all or any class or group of the members or managers, on any matter. If the limited liability company agreement so provides, voting by members may be on a per capita, profit share, class, group, or any other basis.

(5) A limited liability company agreement may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any members, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

**Sec. 305.** RCW 25.15.131 and 2020 c 312 s 727 are each amended to read as follows:

(1) A person is dissociated as a member of a limited liability company upon the occurrence of one or more of the following events:

(a) The member dies or withdraws (~~by voluntary act~~) from the limited liability company as provided in subsection (2) of this section;

(b) The transfer of all of the member's transferable interest in the limited liability company;

(c) The member is removed as a member in accordance with the limited liability company agreement;

(d) The occurrence of an event upon which the member ceases to be a member under the limited liability company agreement;

(e) The person is a corporation, limited liability company, general partnership, or limited partnership, and the person is removed as a member by the unanimous consent of the other members, which may be done under this subsection (1)(e) only if:

(i) The person has filed articles of dissolution, a certificate of dissolution or the equivalent, or the person has been administratively or judicially dissolved, or its right to conduct business has been suspended or revoked by the jurisdiction of its incorporation, or the person has otherwise been dissolved; and

(ii) The dissolution has not been revoked or the person or its right to conduct business has not been reinstated within ninety days after the limited liability company notifies the person that it will be removed as a member for any reason identified in (e)(i) of this subsection;

(f) Unless all other members otherwise agree at the time, the member (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) becomes the subject of an order for relief in bankruptcy proceedings; (iv) files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of the nature described in (f)(i) through (iv) of this subsection; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties;

(g) Unless all other members otherwise agree at the time, if within one hundred twenty days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within ninety days after the appointment without his or her consent or acquiescence of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or within ninety days after the expiration of any stay, the appointment is not vacated; or

(h) Unless all other members otherwise agree at the time, in the case of a member who is an individual, the entry of an order by a court of competent jurisdiction adjudicating the member as being subject to a conservatorship under RCW 11.130.360.

(2) A member may withdraw from a limited liability company at ~~((the time or upon the happening of events specified in and in accordance with the limited liability company agreement. If the limited liability company agreement does~~



~~not specify the time or the events upon the happening of which a member may withdraw, a member may not withdraw from the limited liability company without the written consent of all other members)) any time. The withdrawn member or transferee shall have no right to payment from the limited liability company as a consequence of its withdrawal.~~

(3) When a person is dissociated as a member of a limited liability company:

(a) The person's right to participate as a member in the management and conduct of the limited liability company's activities terminates;

(b) If the limited liability company is member-managed, the person's fiduciary duties as a member end with regard to matters arising and events occurring after the person's dissociation; and

(c) Subject to subsection (5) of this section, any transferable interest owned by the person immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.

(4) A person's dissociation as a member of a limited liability company does not of itself discharge the person from any debt, obligation, or other liability to the limited liability company or the other members which the person incurred while a member.

(5) If a member dies, the deceased member's personal representative or other legal representative may exercise the rights of a transferee provided in RCW 25.15.251 and, for the purposes of settling the estate, the rights of a current member under RCW 25.15.136.

**Sec. 306.** RCW 25.15.441 and 2015 c 188 s 85 are each amended to read as follows:

(1) Subject to RCW 25.15.456, a plan of conversion must be ~~((consented to))~~ approved either by all the members of a converting limited liability company or as provided in a written limited liability company agreement.

(2) Subject to RCW 25.15.456 and any contractual rights, after a conversion is approved, and at any time before a filing is made under RCW 25.15.446, a converting limited liability company may amend the plan or abandon the planned conversion:

(a) As provided in the plan; and

(b) Except as prohibited by the plan, by the same approval as was required to approve the plan.

Passed by the Senate January 28, 2022.

Passed by the House March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 43

[Substitute Senate Bill 5496]

### HEALTH PROFESSIONAL MONITORING PROGRAMS—VARIOUS PROVISIONS

AN ACT Relating to health professional monitoring programs by clarifying the application of the programs and confidentiality protections for program participants, and updating terminology, definitions, and references; amending RCW 18.22.250, 18.32.534, 18.57.015, 18.71.300, 18.71.310, 18.71.315, 18.71.320, 18.92.047, and 18.130.070; and reenacting and amending RCW 18.130.175.

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

**Sec. 1.** RCW 18.22.250 and 2017 c 22 s 1 are each amended to read as follows:

(1) To implement ~~((an impaired))~~ a podiatric ~~((practitioner))~~ 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 ~~((abuse))~~ use disorder monitoring program. The ~~((impaired))~~ podiatric ~~((practitioner))~~ 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 ~~((practitioners))~~ physicians to treatment programs;
- (e) Monitoring the treatment and rehabilitation of impaired podiatric ~~((practitioners))~~ physicians including those ordered by the board;
- (f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired podiatric ~~((practitioners))~~ 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 per year or equivalent on each license issuance or renewal to be collected by the department from every podiatric ~~((practitioner))~~ physician licensed under this chapter. These moneys must be placed in the health professions account to be used solely for implementation of the ~~((impaired))~~ podiatric ~~((practitioner))~~ physician health program.

**Sec. 2.** RCW 18.32.534 and 2013 c 129 s 1 are each amended to read as follows:

(1) To implement ~~((an impaired))~~ 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 ~~((abuse))~~ use disorder monitoring program. The ~~((impaired))~~ 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 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 ~~((18.32 RCW))~~. These moneys shall be placed in the health professions account to be used solely for the implementation of the ~~((impaired))~~ dentist health program.

**Sec. 3.** RCW 18.57.015 and 2016 c 42 s 1 are each amended to read as follows:

(1) To implement an (~~(impaired)~~) osteopathic (~~(practitioner)~~) 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 (~~(abuse)~~) use disorder monitoring program. The (~~(impaired)~~) osteopathic (~~(practitioner)~~) 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 (~~(practitioners)~~) physicians to treatment programs;
- (e) Monitoring the treatment and rehabilitation of impaired osteopathic (~~(practitioners)~~) physicians including those ordered by the board;
- (f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired osteopathic (~~(practitioners)~~) 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 per year or equivalent on each license issuance or renewal to be collected by the department from every osteopathic (~~(practitioner)~~) physician licensed under this chapter. These moneys shall be placed in the health professions account to be used solely for the implementation of the (~~(impaired)~~) osteopathic (~~(practitioner)~~) physician health program.

**Sec. 4.** RCW 18.71.300 and 1998 c 132 s 3 are each amended to read as follows:

The definitions in this section apply throughout RCW 18.71.310 through 18.71.340 unless the context clearly requires otherwise.

(1) "Entity" means a nonprofit corporation formed by physicians who have expertise in (~~(the areas of alcohol abuse, drug abuse, alcoholism, other drug addictions, and)~~) substance use disorders, mental illness, and other potentially impairing health conditions and who broadly represent the physicians of the state and that has been designated to perform any or all of the activities set forth in RCW 18.71.310(1) by the commission.

(2) "Impaired" or "impairment" means the inability to practice medicine with reasonable skill and safety to patients by reason of (~~(physical or mental illness including alcohol abuse, drug abuse, alcoholism, other drug addictions, or other debilitating conditions)~~) a health condition.

(3) "~~(Impaired physician)~~ Physician health program" means the program for the prevention, detection, intervention, referral for evaluation and treatment, and monitoring(~~(, and treatment)~~) of impaired or potentially impaired physicians established by the commission pursuant to RCW 18.71.310(1).

(~~(4)~~) "~~Physician~~ or "~~practitioner~~" means a person licensed under this chapter, chapter 18.71A RCW, or a professional licensed under another chapter of Title 18 RCW whose disciplining authority has a contract with the entity for an impaired practitioner program for its license holders.

(5) "~~Treatment program~~" means a plan of care and rehabilitation services provided by those organizations or persons authorized to provide such services

~~to be approved by the commission or entity for impaired physicians taking part in the impaired physician program created by RCW 18.71.310.)~~

**Sec. 5.** RCW 18.71.310 and 2009 c 98 s 1 are each amended to read as follows:

(1) The commission shall enter into a contract with the entity to implement ~~((an impaired))~~ a physician health program. The commission may enter into a contract with the entity for up to six years in length. The ~~((impaired))~~ physician health program may include any or all of the following:

(a) Entering into relationships supportive of the ~~((impaired))~~ 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 ~~((impaired physicians))~~ participants including those ordered by the commission;

(f) Providing monitoring and ~~((continuing treatment and rehabilitative))~~ care management support of ~~((physicians))~~ 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 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 ~~((and)),~~ 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 ~~((for the implementation of))~~ to support the ~~((impaired))~~ physician health program.

(3) All funds in the impaired physician account shall be paid to the contract entity within sixty days of deposit.

**Sec. 6.** RCW 18.71.315 and 1998 c 132 s 12 are each amended to read as follows:

The impaired physician account is created in the custody of the state treasurer. All receipts from RCW 18.71.310 from license surcharges on physicians and physician assistants shall be deposited into the account. Expenditures from the account may only be used for the ~~((impaired))~~ physician health program under this chapter. Only the secretary of health or the secretary's designee may authorize expenditures from the account. No appropriation is required for expenditures from this account.

**Sec. 7.** RCW 18.71.320 and 1998 c 132 s 5 are each amended to read as follows:

The entity shall develop procedures in consultation with the commission for:

(1) Periodic reporting of statistical information regarding ~~((impaired))~~ physician health program participant activity;

(2) Periodic disclosure and joint review of such information as the commission may deem appropriate regarding reports received, contacts or investigations made, and the disposition of each report. However, the entity shall not disclose any personally identifiable information except as provided in subsections (3) and (4) of this section;

(3) Immediate reporting to the commission of the name and results of any contact or investigation regarding any suspected or verified impaired physician who is reasonably believed probably to constitute an imminent danger to himself or herself or to the public;

(4) Reporting to the commission, in a timely fashion, any suspected or verified impaired physician who fails to cooperate with the entity, fails to submit to evaluation or treatment, or whose impairment is not substantially alleviated through treatment, or who, in the opinion of the entity, is probably unable to practice medicine with reasonable skill and safety;

(5) Informing each participant of the (~~(impaired)~~) physician health program of the program procedures, the responsibilities of program participants, and the possible consequences of noncompliance with the program.

**Sec. 8.** RCW 18.92.047 and 2016 c 42 s 3 are each amended to read as follows:

(1) To implement (~~(an impaired)~~) 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 (~~(abuse)~~) use disorder monitoring program. The (~~(impaired)~~) 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 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 (~~(18.92 RCW)~~). These moneys shall be placed in the health professions account to be used solely for the implementation of the (~~(impaired)~~) veterinarian health program.

**Sec. 9.** RCW 18.130.070 and 2007 c 273 s 23 are each amended to read as follows:

(1)(a) The secretary shall adopt rules requiring every license holder to report to the appropriate disciplining authority any conviction, determination, or finding that another license holder has committed an act which constitutes unprofessional conduct, or to report information to the disciplining authority, (~~(an impaired practitioner program,)~~) physician health program, or voluntary substance (~~(abuse)~~) use disorder monitoring program approved by the

disciplining authority, which indicates that the other license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

(b) The secretary may adopt rules to require other persons, including corporations, organizations, health care facilities, ~~((impaired practitioner))~~ physician health programs, or voluntary substance ~~((abuse))~~ use disorder monitoring programs approved by ~~((a))~~ the disciplining authority, and state or local government agencies, to report:

(i) Any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct; or

(ii) Information to the disciplining authority, ~~((an impaired practitioner))~~ physician health program, or voluntary substance ~~((abuse))~~ use disorder monitoring program approved by the disciplining authority, which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

(c) If a report has been made by a hospital to the department pursuant to RCW 70.41.210 or by an ambulatory surgical facility pursuant to RCW 70.230.110, a report to the disciplining authority is not required. To facilitate meeting the intent of this section, the cooperation of agencies of the federal government is requested by reporting any conviction, determination, or finding that a federal employee or contractor regulated by the disciplining authorities enumerated in this chapter has committed an act which constituted unprofessional conduct and reporting any information which indicates that a federal employee or contractor regulated by the disciplining authorities enumerated in this chapter may not be able to practice his or her profession with reasonable skill and safety as a result of a mental or physical condition.

(d) Reporting under this section is not required by:

(i) Any entity with a peer review committee, quality improvement committee or other similarly designated professional review committee, or by a license holder who is a member of such committee, during the investigative phase of the respective committee's operations if the investigation is completed in a timely manner; or

(ii) ~~((An impaired practitioner))~~ A physician health program or voluntary substance ~~((abuse))~~ use disorder monitoring program approved by a disciplining authority under RCW 18.130.175 if the license holder is currently enrolled in the ~~((treatment))~~ program, so long as the license holder actively participates in the ~~((treatment))~~ program and the license holder's impairment does not constitute a clear and present danger to the public health, safety, or welfare.

(2) If a person fails to furnish a required report, the disciplining authority may petition the superior court of the county in which the person resides or is found, and the court shall issue to the person an order to furnish the required report. A failure to obey the order is a contempt of court as provided in chapter 7.21 RCW.

(3) A person is immune from civil liability, whether direct or derivative, for providing information to the disciplining authority pursuant to the rules adopted under subsection (1) of this section.

(4)(a) The holder of a license subject to the jurisdiction of this chapter shall report to the disciplining authority:

(i) Any conviction, determination, or finding that he or she has committed unprofessional conduct or is unable to practice with reasonable skill or safety; and

(ii) Any disqualification from participation in the federal medicare program, under Title XVIII of the federal social security act or the federal medicaid program, under Title XIX of the federal social security act.

(b) Failure to report within thirty days of notice of the conviction, determination, finding, or disqualification constitutes grounds for disciplinary action.

**Sec. 10.** RCW 18.130.175 and 2019 c 446 s 43 and 2019 c 444 s 21 are each reenacted and amended to read as follows:

(1) In lieu of disciplinary action under RCW 18.130.160 and if the disciplining authority determines that the unprofessional conduct may be the result of ~~((substance abuse))~~ an applicable impairing or potentially impairing health condition, the disciplining authority may refer the license holder to a physician health program or a voluntary substance ((abuse)) use disorder monitoring program approved by the disciplining authority.

The cost of ~~((the))~~ evaluation and treatment shall be the responsibility of the license holder, but the responsibility does not preclude payment by an employer, existing insurance coverage, or other sources. ~~((Primary alcoholism or other drug addiction))~~ Evaluation and treatment shall be provided by ~~((approved treatment programs under RCW 70.96A.020 or by any other provider))~~ providers approved by the entity or the commission. ~~((However, nothing shall prohibit the disciplining authority from approving additional services and programs as an adjunct to primary alcoholism or other drug addiction treatment.))~~ The disciplining authority may also approve the use of out-of-state programs. Referral of the license holder to the physician health program or voluntary substance use disorder monitoring program shall be done only with the consent of the license holder. Referral to the physician health program or voluntary substance use disorder monitoring program may also include probationary conditions for a designated period of time. If the license holder does not consent to be referred to the program or does not successfully complete the program, the disciplining authority may take appropriate action under RCW 18.130.160 which includes suspension of the license unless or until the disciplining authority, in consultation with the director of the ~~((voluntary substance abuse monitoring))~~ applicable program, determines the license holder is able to practice safely. The secretary shall adopt uniform rules for the evaluation by the disciplining authority of ~~((a relapse or program violation on the part of a license holder in the substance abuse monitoring program))~~ return to substance use or program violation on the part of a license holder in the program. The evaluation shall encourage program participation with additional conditions, in lieu of disciplinary action, when the disciplining authority determines that the license holder is able to continue to practice with reasonable skill and safety.

(2) In addition to approving the physician health program or the voluntary substance ((abuse)) use disorder monitoring program(s) that may receive referrals from the disciplining authority, the disciplining authority may establish by rule requirements for participation of license holders who are not being investigated or monitored by the disciplining authority ~~((for substance abuse))~~. License holders voluntarily participating in the approved programs without

being referred by the disciplining authority shall not be subject to disciplinary action under RCW 18.130.160 for their ~~((substance abuse))~~ impairing or potentially impairing health condition, and shall not have their participation made known to the disciplining authority, if they meet the requirements of this section and the program in which they are participating.

(3) The license holder shall sign a waiver allowing the program to release information to the disciplining authority if the licensee does not comply with the requirements of this section or is unable to practice with reasonable skill or safety. The ~~((substance abuse))~~ physician health program or voluntary substance use disorder program shall report to the disciplining authority any license holder who fails to comply with the requirements of this section or the program or who, in the opinion of the program, is unable to practice with reasonable skill or safety. License holders shall report to the disciplining authority if they fail to comply with this section or do not complete the program's requirements. License holders may, upon the agreement of the program and disciplining authority, reenter the program if they have previously failed to comply with this section.

~~(4) (The treatment and pretreatment records of license holders referred to or voluntarily participating in approved programs shall be confidential, shall be exempt from chapter 42.56 RCW, and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplining authority for cause as defined in subsection (3) of this section. Monitoring records relating to license holders referred to the program by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, shall be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section shall be exempt from chapter 42.56 RCW and shall not be subject to discovery by subpoena except by the license holder.~~

(5) "Substance abuse," as used in this section, means the impairment, as determined by the disciplining authority, of a license holder's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

~~(6))~~ Program records including, but not limited to, case notes, progress notes, laboratory reports, evaluation and treatment records, electronic and written correspondence within the program, and between the program and the participant or other involved entities including, but not limited to, employers, credentialing bodies, referents, or other collateral sources, relating to license holders referred to or voluntarily participating in approved programs are confidential and exempt from disclosure under chapter 42.56 RCW and shall not be subject to discovery by subpoena or admissible as evidence except:

(a) To defend any civil action by a license holder regarding the restriction or revocation of that individual's clinical or staff privileges, or termination of a license holder's employment. In such an action, the program will, upon subpoena issued by either party to the action, and upon the requesting party seeking a protective order for the requested disclosure, provide to both parties of the action written disclosure that includes the following information:

(i) Verification of a health care professional's participation in the physician health program or voluntary substance use disorder monitoring program as it relates to aspects of program involvement at issue in the civil action;

(ii) The dates of participation;



(iii) Whether or not the program identified an impairing or potentially impairing health condition;

(iv) Whether the health care professional was compliant with the requirements of the physician health program or voluntary substance use disorder monitoring program; and

(v) Whether the health care professional successfully completed the physician health program or voluntary substance use disorder monitoring program; and

(b) Records provided to the disciplining authority for cause as described in subsection (3) of this section. Program records relating to license holders mandated to the program, through order or by stipulation, by the disciplining authority or relating to license holders reported to the disciplining authority by the program for cause, must be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section are exempt from chapter 42.56 RCW and are not subject to discovery by subpoena except by the license holder.

(5) This section does not affect an employer's right or ability to make employment-related decisions regarding a license holder. This section does not restrict the authority of the disciplining authority to take disciplinary action for any other unprofessional conduct.

~~((7))~~ (6) A person who, in good faith, reports information or takes action in connection with this section is immune from civil liability for reporting information or taking the action.

(a) The immunity from civil liability provided by this section shall be liberally construed to accomplish the purposes of this section ~~((and the))~~, and applies to both license holders and students and trainees when students and trainees of the applicable professions are served by the program. The persons entitled to immunity shall include:

(i) An approved ~~((monitoring treatment))~~ physician health program or voluntary substance use disorder monitoring program;

(ii) The professional association ~~((operating))~~ affiliated with the program;

(iii) Members, employees, or agents of the program or ~~((association))~~ associations;

(iv) Persons reporting a license holder as being possibly impaired or providing information about the license holder's impairment; and

(v) Professionals supervising or monitoring the course of the ~~((impaired license holder's))~~ program participant's treatment or rehabilitation.

(b) The courts are strongly encouraged to impose sanctions on ~~((clients))~~ program participants and their attorneys whose allegations under this subsection are not made in good faith and are without either reasonable objective, substantive grounds, or both.

(c) The immunity provided in this section is in addition to any other immunity provided by law.

~~((8))~~ (7) In the case of a person who is applying to be a substance use disorder professional or substance use disorder professional trainee certified under chapter 18.205 RCW, if the person is:

(a) Less than one year in recovery from a substance use disorder, the duration of time that the person may be required to participate in ~~((the voluntary))~~ an approved substance ~~((abuse))~~ use disorder monitoring program

may not exceed the amount of time necessary for the person to achieve one year in recovery; or

(b) At least one year in recovery from a substance use disorder, the person may not be required to participate in the approved substance ~~((abuse))~~ use disorder monitoring program.

~~((9))~~ (8) In the case of a person who is applying to be an agency affiliated counselor registered under chapter 18.19 RCW and practices or intends to practice as a peer counselor in an agency, as defined in RCW 18.19.020, if the person is:

(a) Less than one year in recovery from a substance use disorder, the duration of time that the person may be required to participate in the ~~((voluntary))~~ approved substance ~~((abuse))~~ use disorder monitoring program may not exceed the amount of time necessary for the person to achieve one year in recovery; or

(b) At least one year in recovery from a substance use disorder, the person may not be required to participate in the approved substance ~~((abuse))~~ use disorder monitoring program.

Passed by the Senate January 26, 2022.

Passed by the House March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 44

[Substitute Senate Bill 5497]

### STATE BOARD OF EDUCATION—STUDENT MEMBERS—VOTING

AN ACT Relating to extending voting authority to student members on the state board of education; and amending RCW 28A.305.011.

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

**Sec. 1.** RCW 28A.305.011 and 2006 c 263 s 105 are each amended to read as follows:

(1) The membership of the state board of education shall be composed of sixteen members who are residents of the state of Washington:

(a) Seven shall be members representing the educational system, as follows:

(i) Five members elected by school district directors. Three of the members elected by school district directors shall be residents of western Washington and two members shall be residents of eastern Washington;

(ii) One member elected at large by the members of the boards of directors of all private schools in the state meeting the requirements of RCW 28A.195.010; and

(iii) The superintendent of public instruction;

(b) Seven members appointed by the governor; and

(c) Two students selected in a manner determined by the state board of education.

(2) Initial appointments shall be for terms from one to four years in length, with the terms expiring on the second Monday of January of the applicable year. As the terms of the first appointees expire or vacancies on the board occur, the

governor shall appoint or reappoint members of the board to complete the initial terms or to four-year terms, as appropriate.

(a) Appointees of the governor must be individuals who have demonstrated interest in public schools and are supportive of educational improvement, have a positive record of service, and who will devote sufficient time to the responsibilities of the board.

(b) In appointing board members, the governor shall consider the diversity of the population of the state.

(c) All appointments to the board made by the governor are subject to confirmation by the senate.

(d) No person may serve as a member of the board, except the superintendent of public instruction, for more than two consecutive full four-year terms.

(3) The governor may remove an appointed member of the board for neglect of duty, misconduct, malfeasance, or misfeasance in office, or for incompetent or unprofessional conduct as defined in chapter 18.130 RCW. In such a case, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary of state shall send a certified copy of the statement of causes and order of removal to the last known post office address of the member.

(4)(a) The chair of the board shall be elected by a majority vote of the members of the board. The chair of the board shall serve a term of two years, and may be reelected to an additional term. A member of the board may not serve as chair for more than two consecutive terms.

(b) ~~((Eight))~~ Except as provided in (d) of this subsection, nine voting members of the board constitute a quorum for the transaction of business.

(c) All members ~~((except the student members))~~ are voting members.

(d) A student member selected under subsection (1)(c) of this section shall excuse themselves from voting on matters directly relating to graduation requirement changes that apply to the student's school and graduating class. In the event of a student member excusing themselves under this subsection, eight voting members of the board constitute a quorum for the transaction of business.

(5) Members of the board appointed by the governor who are not public employees shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

Passed by the Senate February 8, 2022.

Passed by the House March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 45

[Senate Bill 5545]

MILITARY TUITION WAIVER—SURVIVOR BENEFITS—MODIFICATION

AN ACT Relating to survivor benefits; and amending RCW 28B.15.621.

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

**Sec. 1.** RCW 28B.15.621 and 2019 c 406 s 73 are each amended to read as follows:

(1) The legislature finds that active military and naval veterans, reserve military and naval veterans, and national guard members called to active duty have served their country and have risked their lives to defend the lives of all Americans and the freedoms that define and distinguish our nation. The legislature intends to honor active military and naval veterans, reserve military and naval veterans, and national guard members who have served on active military or naval duty for the public service they have provided to this country.

(2) Subject to the limitations in RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, may waive all or a portion of tuition and fees for an eligible veteran or national guard member.

(3) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, may waive all or a portion of tuition and fees for a military or naval veteran who is a Washington domiciliary, but who did not serve on foreign soil or in international waters or in another location in support of those serving on foreign soil or in international waters and who does not qualify as an eligible veteran or national guard member under subsection (8) of this section. However, there shall be no state general fund support for waivers granted under this subsection.

(4) Subject to the conditions in subsection (5) of this section and the limitations in RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, shall waive all tuition and fees for the following persons:

(a) A child and the spouse or the domestic partner or surviving spouse or surviving domestic partner of an eligible veteran or national guard member who became totally disabled as a result of serving in active federal military or naval service, or who is determined by the federal government to be a prisoner of war or missing in action; and

(b) A child and the surviving spouse or surviving domestic partner of an eligible veteran or national guard member who lost his or her life as a result of serving in active federal military or naval service.

(5) The conditions in this subsection (5) apply to waivers under subsection (4) of this section.

(a) A child must be a Washington domiciliary between the age of seventeen and twenty-six to be eligible for the tuition waiver. A child's marital status does not affect eligibility.

(b)(i) A surviving spouse or surviving domestic partner must be a Washington domiciliary.

(ii) ~~(Except as provided in (b)(iii) of this subsection, a)~~ (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 ((the) 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 federal)); or

(IV) Federal determination of prisoner of war or missing in action status (~~(of the eligible veteran or national guard member to receive benefits under the waiver)~~).

(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.

~~((iii) If a death results from total disability, the surviving spouse has ten years from the date of death in which to receive benefits under the waiver.))~~

(c) Each recipient's continued participation is subject to the school's satisfactory progress policy.

(d) Tuition waivers for graduate students are not required for those who qualify under subsection (4) of this section but are encouraged.

(e) Recipients who receive a waiver under subsection (4) of this section may attend full-time or part-time. Total credits earned using the waiver may not exceed two hundred fifty quarter credits, or the equivalent of semester credits.

(f) Subject to amounts appropriated, recipients who receive a waiver under subsection (4) of this section shall also receive a stipend for textbooks and course materials in the amount of five hundred dollars per academic year, to be divided equally among academic terms and prorated for part-time enrollment.

(6) Required waivers of all tuition and fees under subsection (4) of this section shall not affect permissive waivers of tuition and fees under subsection (3) of this section.

(7) Private vocational schools and private higher education institutions are encouraged to provide waivers consistent with the terms in subsections (2) through (5) of this section.

(8) The definitions in this subsection apply throughout this section.

(a) "Child" means a biological child, adopted child, or stepchild.

(b) "Eligible veteran or national guard member" means a Washington domiciliary who was an active or reserve member of the United States military or naval forces, or a national guard member called to active duty, who served in active federal service, under either Title 10 or Title 32 of the United States Code, in a war or conflict fought on foreign soil or in international waters or in support of those serving on foreign soil or in international waters, and if discharged from service, has received an honorable discharge or any other discharge if the sole reason for discharge is due to gender or sexuality.

(c) "Totally disabled" means a person who has been determined to be one hundred percent disabled by the federal department of veterans affairs.

(d) "Washington domiciliary" means a person whose true, fixed, and permanent house and place of habitation is the state of Washington. "Washington domiciliary" includes a person who is residing in rental housing or residing in base housing. In ascertaining whether a child or surviving spouse or surviving domestic partner is domiciled in the state of Washington, public institutions of higher education shall, to the fullest extent possible, rely upon the standards provided in RCW 28B.15.013.

(9) As used in subsection (4) of this section, "fees" includes all assessments for costs incurred as a condition to a student's full participation in coursework and related activities at an institution of higher education.

(10) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges shall

report to the higher education committees of the legislature by November 15, 2010, and every two years thereafter, regarding the status of implementation of the waivers under subsection (4) of this section. The reports shall include the following data and information:

- (a) Total number of waivers;
- (b) Total amount of tuition waived;
- (c) Total amount of fees waived;
- (d) Average amount of tuition and fees waived per recipient;
- (e) Recipient demographic data that is disaggregated by distinct ethnic categories within racial subgroups; and
- (f) Recipient income level, to the extent possible.

Passed by the Senate February 15, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 46

[Substitute Senate Bill 5575]

### SNOHOMISH COUNTY—ADDING SUPERIOR COURT JUDGES

AN ACT Relating to adding additional superior court judges in Snohomish county; amending RCW 2.08.064; and creating a new section.

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

**Sec. 1.** RCW 2.08.064 and 2013 c 142 s 1 are each amended to read as follows:

There shall be in the counties of Benton and Franklin jointly, seven judges of the superior court; in the county of Clallam, three judges of the superior court; in the county of Jefferson, one judge of the superior court; in the county of Snohomish, (~~fifteen~~) 17 judges of the superior court; in the counties of Asotin, Columbia and Garfield jointly, one judge of the superior court; in the county of Cowlitz, five judges of the superior court; in the counties of Klickitat and Skamania jointly, one judge of the superior court.

**NEW SECTION. Sec. 2.** (1) The additional judicial positions created in section 1 of this act are effective only if Snohomish county, through its duly constituted legislative authority, documents its approval of the additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial positions as provided by state law and the state Constitution.

(2) The judicial positions created in section 1 of this act are effective July 1, 2022.

Passed by the Senate February 11, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 47

[Senate Bill 5582]

## PORT COMMISSIONS—NEW DISTRICT BOUNDARIES—DEADLINES

AN ACT Relating to the deadline for a port commission to send new district boundaries to the county auditor when expanding from three commissioners to five; and amending RCW 53.12.010 and 53.12.130.

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

**Sec. 1.** RCW 53.12.010 and 2002 c 51 s 1 are each amended to read as follows:

(1) The powers of the port district shall be exercised through a port commission consisting of three or, when permitted by this title, five members. Every port district that is not coextensive with a county having a population of five hundred thousand or more shall be divided into the same number of commissioner districts as there are commissioner positions, each having approximately equal population, unless provided otherwise under subsection (2) of this section. Where a port district with three commissioner positions is coextensive with the boundaries of a county that has a population of less than five hundred thousand and the county has three county legislative authority districts, the port commissioner districts shall be the county legislative authority districts. In other instances where a port district is divided into commissioner districts, the port commission shall divide the port district into commissioner districts unless the commissioner districts have been described pursuant to RCW 53.04.031. The commissioner districts shall be altered as provided in chapter 53.16 RCW.

Commissioner districts shall be used as follows: (a) Only a registered voter who resides in a commissioner district may be a candidate for, or hold office as, a commissioner of the commissioner district; and (b) only the voters of a commissioner district may vote at a primary to nominate candidates for a commissioner of the commissioner district. Voters of the entire port district may vote at a general election to elect a person as a commissioner of the commissioner district.

(2)(a) In port districts with five commissioners, two of the commissioner districts may include the entire port district if approved by the voters of the district either at the time of formation or at a subsequent port district election at which the issue is proposed pursuant to a resolution adopted by the board of commissioners and delivered to the county auditor.

(b) In a port district with five commissioners, where two of the commissioner districts include the entire port district, the port district may be divided into five commissioner districts if proposed pursuant to a resolution adopted by the board of commissioners or pursuant to a petition by the voters and approved by the voters of the district at the next general or special election occurring sixty or more days after the adoption of the resolution. A petition proposing such an increase must be submitted to the county auditor of the county in which the port district is located and signed by voters of the port district at least equal in number to ten percent of the number of voters in the port district who voted at the last general election.

Upon approval by the voters, the commissioner district boundaries shall be redrawn into five districts (~~within one hundred twenty days~~) prior to the first day of January in the year in which the two additional commissioners shall be

elected and submitted to the county auditor pursuant to RCW 53.16.015. The new commissioner districts shall be numbered one through five and the three incumbent commissioners representing the three former districts shall represent commissioner districts one through three. The two at large incumbent commissioners shall represent commissioner districts four and five. If, as a result of redrawing the district boundaries more than one of the incumbent commissioners resides in one of the new commissioner districts, the commissioners who reside in the same commissioner district shall determine by lot which of the numbered commissioner districts they shall represent for the remainder of their respective terms.

**Sec. 2.** RCW 53.12.130 and 2015 c 53 s 79 are each amended to read as follows:

Two additional port commissioners shall be elected at the next district general election following the election at which voters authorized the increase in port commissioners to five members.

The port commissioners shall divide the port district into five commissioner districts prior to the first day of (~~June~~) January in the year in which the two additional commissioners shall be elected, unless the voters approved the nomination of the two additional commissioners from district-wide commissioner districts as permitted in RCW 53.12.010(2). The new commissioner districts shall be numbered one through five and the three incumbent commissioners shall represent commissioner districts one through three. If, as a result of redrawing the district boundaries two or three of the incumbent commissioners reside in one of the new commissioner districts, the commissioners who reside in the same commissioner district shall determine by lot which of the first three numbered commissioner districts they shall represent for the remainder of their respective terms. A primary shall be held to nominate candidates from districts four and five where necessary and commissioners shall be elected from commissioner districts four and five at the general election. The persons elected as commissioners from commissioner districts four and five shall take office immediately after qualification as defined under RCW 29A.04.133.

In a port district where commissioners are elected to four-year terms of office, the additional commissioner thus elected receiving the highest number of votes shall be elected to a four-year term of office and the other additional commissioner thus elected shall be elected to a term of office of two years, if the election is held in an odd-numbered year, or the additional commissioner thus elected receiving the highest number of votes shall be elected to a term of office of three years and the other shall be elected to a term of office of one year, if the election is held in an even-numbered year. In a port district where the commissioners are elected to six-year terms of office, the additional commissioner thus elected receiving the highest number of votes shall be elected to a six-year term of office and the other additional commissioner shall be elected to a four-year term of office, if the election is held in an odd-numbered year, or the additional commissioner receiving the highest number of votes shall be elected to a term of office of five-years and the other shall be elected to a three-year term of office, if the election is held in an even-numbered year. The length of terms of office shall be computed from the first day of January in the year following this election.



Successor commissioners from districts four and five shall be elected to terms of either six or four years, depending on the length of terms of office to which commissioners of that port district are elected.

Passed by the Senate February 8, 2022.

Passed by the House March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 48

[Senate Bill 5583]

### LOCAL REDISTRICTING—INCARCERATED PERSONS—ADJUSTED CENSUS

AN ACT Relating to requiring the adjustment of census data for local redistricting to reflect the last known place of residence for incarcerated persons; amending RCW 29A.76.010 and 29A.76.010; providing an effective date; and providing an expiration date.

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

**Sec. 1.** RCW 29A.76.010 and 2021 c 173 s 1 are each amended to read as follows:

(1) It is the responsibility of each county, municipal corporation, and special purpose district with a governing body comprised of internal director, council, or commissioner districts not based on statutorily required land ownership criteria to periodically redistrict its governmental unit, based on population information from the most recent federal decennial census as adjusted by RCW 44.05.140.

(2) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each municipal corporation, county, and district charged with redistricting under this section.

(3) Except as otherwise provided in chapter 301, Laws of 2018, the governing body of the municipal corporation, county, or district shall prepare a plan for redistricting its internal or director districts:

(a) By December 31, 2021, if the jurisdiction is scheduled to elect members to its governing body in 2022; or

(b) By November 15, 2022, if the jurisdiction is not scheduled to elect members to its governing body in 2022.

(4) The plan shall be consistent with the following criteria:

(a) Each internal director, council, or commissioner district shall be as nearly equal in population as possible to each and every other such district comprising the municipal corporation, county, or special purpose district.

(b) Each district shall be as compact as possible.

(c) Each district shall consist of geographically contiguous area.

(d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party.

(e) To the extent feasible and if not inconsistent with the basic enabling legislation for the municipal corporation, county, or district, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(5) During the adoption of its plan, the municipal corporation, county, or district shall ensure that full and reasonable public notice of its actions is provided. Before adopting the plan, the municipal corporation, county, or district must:

(a) Publish the draft plan and hold a meeting, including notice and comment, within ten days of publishing the draft plan and at least one week before adopting the plan; and

(b) Amend the draft as necessary after receiving public comments and resubmit any amended draft plan for additional written public comment at least one week before adopting the plan.

(6)(a) Any registered voter residing in an area affected by the redistricting plan may request review of the adopted local plan by the superior court of the county in which he or she resides, within fifteen days of the plan's adoption. Any request for review must specify the reason or reasons alleged why the local plan is not consistent with the applicable redistricting criteria. The municipal corporation, county, or district may be joined as respondent. The superior court shall thereupon review the challenged plan for compliance with the applicable redistricting criteria set out in subsection (4) of this section.

(b) If the superior court finds the plan to be consistent with the requirements of this section, the plan shall take effect immediately.

(c) If the superior court determines the plan does not meet the requirements of this section, in whole or in part, it shall remand the plan for further or corrective action within a specified and reasonable time period.

(d) If the superior court finds that any request for review is frivolous or has been filed solely for purposes of harassment or delay, it may impose appropriate sanctions on the party requesting review, including payment of attorneys' fees and costs to the respondent municipal corporation, county, or district.

**Sec. 2.** RCW 29A.76.010 and 2021 c 173 s 2 are each amended to read as follows:

(1) It is the responsibility of each county, municipal corporation, and special purpose district with a governing body comprised of internal director, council, or commissioner districts not based on statutorily required land ownership criteria to periodically redistrict its governmental unit, based on population information from the most recent federal decennial census as adjusted by RCW 44.05.140.

(2) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each municipal corporation, county, and district charged with redistricting under this section.

(3) Except as otherwise provided in chapter 301, Laws of 2018, no later than November 15th of each year ending in one, the governing body of the municipal corporation, county, or district shall prepare a plan for redistricting its internal or director districts.

(4) The plan shall be consistent with the following criteria:

(a) Each internal director, council, or commissioner district shall be as nearly equal in population as possible to each and every other such district comprising the municipal corporation, county, or special purpose district.

(b) Each district shall be as compact as possible.

(c) Each district shall consist of geographically contiguous area.

(d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party.

(e) To the extent feasible and if not inconsistent with the basic enabling legislation for the municipal corporation, county, or district, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(5) During the adoption of its plan, the municipal corporation, county, or district shall ensure that full and reasonable public notice of its actions is provided. Before adopting the plan, the municipal corporation, county, or district must:

(a) Publish the draft plan and hold a meeting, including notice and comment, within ten days of publishing the draft plan and at least one week before adopting the plan; and

(b) Amend the draft as necessary after receiving public comments and resubmit any amended draft plan for additional written public comment at least one week before adopting the plan.

(6)(a) Any registered voter residing in an area affected by the redistricting plan may request review of the adopted local plan by the superior court of the county in which he or she resides, within fifteen days of the plan's adoption. Any request for review must specify the reason or reasons alleged why the local plan is not consistent with the applicable redistricting criteria. The municipal corporation, county, or district may be joined as respondent. The superior court shall thereupon review the challenged plan for compliance with the applicable redistricting criteria set out in subsection (4) of this section.

(b) If the superior court finds the plan to be consistent with the requirements of this section, the plan shall take effect immediately.

(c) If the superior court determines the plan does not meet the requirements of this section, in whole or in part, it shall remand the plan for further or corrective action within a specified and reasonable time period.

(d) If the superior court finds that any request for review is frivolous or has been filed solely for purposes of harassment or delay, it may impose appropriate sanctions on the party requesting review, including payment of attorneys' fees and costs to the respondent municipal corporation, county, or district.

NEW SECTION. Sec. 3. Section 1 of this act expires January 1, 2023.

NEW SECTION. Sec. 4. Section 2 of this act takes effect January 1, 2023.

Passed by the Senate February 8, 2022.

Passed by the House March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 49

[Senate Bill 5602]

### FINANCIAL INSTITUTION SERVICE PROVIDERS

AN ACT Relating to service providers working with state-regulated financial institutions; amending RCW 31.12.565; and adding new sections to chapter 43.320 RCW.

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

**NEW SECTION. Sec. 1. DEFINITIONS.** The definitions in this section apply throughout this section and sections 2 through 7 of this act unless the context clearly requires otherwise.

(1) "Covered financial institution" means a bank as defined in section 3 of the federal deposit insurance act, 12 U.S.C. Sec. 1813(a), and includes those financial institutions supervised and regulated by the director under Titles 30A, 32, and 33 RCW, including any subsidiary or affiliate of any applicable covered financial institution under the bank service company act, 12 U.S.C. Sec. 1861(b)(2).

(2) "Covered service" means any service subject to examination under the bank service company act, 12 U.S.C. Sec. 1867 (c) as of the effective date of this section, or such subsequent date as may be provided by the department by rule consistent with the purposes of this act.

(3) "Department" means the state department of financial institutions.

(4) "Director" means the director of financial institutions, or the director's duly authorized representative.

(5) "Federal agency" includes the federal deposit insurance corporation, federal reserve, national credit union administration, consumer financial protection bureau, and office of the comptroller of the currency, or any successor federal agencies.

(6) "Service provider" means any person, company, corporation, or other legal entity that provides a covered service to a covered financial institution; the term service provider also includes "service companies" as defined under the bank service company act, 12 U.S.C. Sec. 1861(b)(2).

**NEW SECTION. Sec. 2. EXAMINATION OF SERVICE PROVIDERS.**

(1) A service provider that provides a covered service, by contract or otherwise, to a covered financial institution, is subject to examination by the director to the same extent as if the covered service was performed by the covered financial institution itself.

(2) The director may, in the director's discretion, examine any service provider under sections 1 through 7 of this act; provided that prior to any state-only examination, the director must find that:

(a) The information sought cannot be otherwise accessed or verified by the records of the covered financial institution without direct examination of the records of the service provider;

(b) The service provider manages an application, process, or system for the benefit of the covered financial institution, the integrity of which cannot be evaluated without direct examination; or

(c) An act or omission of the service provider sought to be examined has resulted in a significant heightened risk, is committing an unsafe and unsound practice, operating in an unsafe or unsound manner, or is otherwise violating a provision of Title 30A, 32, or 33 RCW, or other applicable law.

**NEW SECTION. Sec. 3. ACCEPTANCE OF REPORTS OF EXAMINATION FROM OTHER REGULATORS.** The director may, in the director's discretion, accept service provider reports of examination, which are made by any other state or federal agency, in lieu of any examination authorized under the laws of this state.

**NEW SECTION. Sec. 4. CONFIDENTIALITY OF SERVICE PROVIDER REPORTS OF EXAMINATION.** A service provider report of examination written or obtained by the director is confidential and subject to the applicable state and federal bank confidentiality laws including, but not limited to, RCW 30A.04.075, 31.12.565, 32.04.220, and 33.04.110, provided that:

(1) For any joint service provider report of examination performed by the director with any other state or federal agency, a copy may be furnished to:

(a) The examined service provider or the covered financial institutions serviced by the service provider in accordance with the bank service company act, 12 U.S.C. chapter 18, and the attendant rules, regulations, policies, and guidance applicable to service provider examinations;

(b) Outside parties with written consent of all state and federal agencies that participated in the examination; or

(c) Outside parties if compelled in response to a valid legal process; however, the department must provide a written notice of disclosure and reasonable opportunity to object to all state and federal agencies that participated in the examination.

(2) For any state-only service provider report of examination performed solely by the director, a copy may be furnished to:

(a) The examined service provider;

(b) Any Washington state-chartered or Washington state-licensed financial institution serviced by the service provider; or

(c) Outside parties if compelled in response to a valid legal process with reasonable opportunity for the department to object.

**NEW SECTION. Sec. 5. AGREEMENTS WITH STATE AND FEDERAL AGENCIES.** The director may enter into examination and information sharing agreements with any state or federal agency that has joint or concurrent jurisdiction over a service provider.

**NEW SECTION. Sec. 6. ENFORCEMENT.** (1) The director may take enforcement actions against a service provider for planning, attempting, or currently violating any state or federal law, or engaging in any unsafe or unsound practice, to the same extent, and as if, the covered service was performed by the covered financial institution itself, pursuant to Titles 30A, 32, and 33 RCW.

(2) The director may enter into joint examinations or joint enforcement actions with other state or federal agencies having joint or concurrent jurisdiction over a service provider.

**NEW SECTION. Sec. 7. DIRECTOR—BROAD ADMINISTRATIVE DISCRETION—RULE MAKING.** The director has the power, and broad administrative discretion, to administer and interpret sections 1 through 6 of this act. The director may adopt all rules necessary to administer sections 1 through 6 of this act.

**Sec. 8.** RCW 31.12.565 and 2010 c 87 s 6 are each amended to read as follows:

(1) The following are confidential and privileged and not subject to public disclosure under chapter 42.56 RCW:

(a) Examination reports and information obtained by the director in conducting examinations and investigations under this chapter and chapter 31.13 RCW;

(b) Examination reports and related information from other financial institution regulators obtained by the director;

(c) Reports or parts of reports accepted in lieu of an examination under RCW 31.12.545; and

(d) Business plans and other proprietary information obtained by the director in connection with a credit union's application or notice to the director.

(2) Notwithstanding subsection (1) of this section, the director may furnish examination reports~~((f))~~ <sup>2</sup> work papers, final orders, or other information obtained in the conduct of an examination or investigation prepared by the director to:

(a) Federal agencies empowered to examine credit unions or other financial institutions;

(b) Officials empowered to investigate criminal charges. The director may furnish only that part of the report which is necessary and pertinent to the investigation, and only after notifying the affected credit union and members of the credit union who are named in that part of the examination report, or other person examined, that the report is being furnished to the officials, unless the officials requesting the report obtain a waiver of the notice requirement for good cause from a court of competent jurisdiction;

(c) The examined credit union or other person examined, solely for its confidential use;

(d) A department licensee or regulated entity that uses a covered service as defined in section 1 of this act, by contract or otherwise, solely for its confidential use;

(e) The attorney general in his or her role as legal advisor to the director;

~~((e))~~ (f) Prospective merger partners or conservators, receivers, or liquidating agents of a distressed credit union;

~~((f))~~ (g) Credit union regulators in other states or foreign jurisdictions regarding an out-of-state or foreign credit union conducting business in this state under this chapter, or regarding a credit union conducting business in the other state or jurisdiction;

~~((g))~~ (h) A person officially connected with the credit union or other person examined, as officer, director, supervisory committee member, attorney, auditor, accountant, independent attorney, independent auditor, or independent accountant;

~~((h))~~ (i) Organizations that have bonded the credit union to the extent that information is relevant to the renewal of the bond coverage or to a claim under the bond coverage;

~~((i))~~ (j) Organizations insuring or guaranteeing the shares of, or deposits in, the credit union; or

~~((j))~~ (k) Other persons as the director may determine necessary to protect the public interest and confidence.

(3) Examination reports, work papers, temporary and final orders, consent orders, and other information obtained in the conduct of an examination or investigation furnished under subsection (2) of this section remain the property of the director and no person to whom reports are furnished or any officer, director, or employee thereof may disclose or make public the reports or information contained in the reports except in published statistical information that does not disclose the affairs of a person, except that nothing prevents the use

in a criminal prosecution of reports furnished under subsection (2)(b) of this section.

(4) In a civil action in which the reports or information are sought to be discovered or used as evidence, a party may, upon notice to the director, petition the court for an in-camera review of the reports or information. The court may permit discovery and introduction of only those portions of the report or information which are relevant and otherwise unobtainable by the requesting party. This subsection does not apply to an action brought or defended by the director.

(5) This section does not apply to investigation reports prepared by the director concerning an application for a new credit union or a notice of intent to establish a branch of a credit union, except that the director may adopt rules making portions of the reports confidential, if in the director's opinion the public disclosure of that portion of the report would impair the ability to obtain information the director considers necessary to fully evaluate the application.

(6) Any person who knowingly violates a provision of this section is guilty of a gross misdemeanor.

**NEW SECTION. Sec. 9.** Sections 1 through 7 of this act are each added to chapter 43.320 RCW.

Passed by the Senate January 28, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 50

[Senate Bill 5617]

### MAIN STREET PROGRAMS—POPULATION DETERMINATION DATE

AN ACT Relating to population criteria for designation of local downtown and neighborhood commercial district revitalization and official local main street programs; and amending RCW 43.360.030.

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

**Sec. 1.** RCW 43.360.030 and 2005 c 514 s 910 are each amended to read as follows:

(1) The department shall adopt criteria for the designation of local downtown or neighborhood commercial district revitalization programs and official local main street programs. In establishing the criteria, the department shall consider:

(a) The degree of interest and commitment to comprehensive downtown or neighborhood commercial district revitalization and, where applicable, historic preservation by both the public and private sectors;

(b) The evidence of potential private sector investment in the downtown or neighborhood commercial district;

(c) Where applicable, a downtown or neighborhood commercial district with sufficient historic fabric to become a foundation for an enhanced community image;

(d) The capacity of the organization to undertake a comprehensive program and the financial commitment to implement a long-term downtown or

neighborhood commercial district revitalization program that includes a commitment to employ a professional program manager and maintain a sufficient operating budget;

(e) The department's existing downtown revitalization program's tier system;

(f) The national main street center's criteria for designating official main street cities; and

(g) Other factors the department deems necessary for the designation of a local program.

(2) The department shall designate local downtown or neighborhood commercial district revitalization programs and official local main street programs. The programs shall be limited to three categories of designation, one of which shall be the main street level.

(3) RCW (~~(82.73.010)~~) 43.360.020 does not apply to any local downtown or neighborhood commercial district revitalization program unless the boundaries of the program have been identified and approved by the department. The boundaries of a local downtown or neighborhood commercial district revitalization program are typically defined using the pedestrian core of a traditional commercial district.

(4) The department may not designate a local downtown or neighborhood commercial district revitalization program or official local main street program if the program is undertaken by a local government with a population of one hundred ninety thousand persons or more at the time of designation.

Passed by the Senate January 28, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 51

[Substitute Senate Bill 5631]

### COMMERCIAL DRIVER'S LICENSES—HUMAN TRAFFICKING

AN ACT Relating to making human trafficking a disqualifying offense for a commercial driver's license and coming into compliance with the requirements of the federal motor carrier safety administration; amending RCW 46.25.090; and providing an effective date.

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

**Sec. 1.** RCW 46.25.090 and 2017 c 87 s 5 are each amended to read as follows:

(1) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if a report has been received by the department pursuant to RCW 46.20.308 or 46.25.120, or if the person has been convicted of a first violation, within this or any other jurisdiction, of:

(a) Driving a motor vehicle under the influence of alcohol or any drug;

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more or any measurable amount of THC concentration, or driving a noncommercial motor vehicle while the alcohol concentration in the person's system is 0.08 or more, or is 0.02 or more if the person is under age twenty-one, or with a THC concentration of 5.00 nanograms



per milliliter of whole blood or more, or a THC concentration above 0.00 if the person is under the age of twenty-one, as determined by any testing methods approved by law in this state or any other state or jurisdiction;

(c) Leaving the scene of an accident involving a motor vehicle driven by the person;

(d) Using a motor vehicle in the commission of a felony;

(e) Refusing to submit to a test or tests to determine the driver's alcohol concentration or the presence of any drug while driving a motor vehicle;

(f) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle;

(g) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular homicide and negligent homicide.

If any of the violations set forth in this subsection occurred while transporting hazardous material, the person is disqualified for a period of not less than three years.

(2) A person is disqualified for life if it has been determined that the person has committed or has been convicted of two or more violations of any of the offenses specified in subsection (1) of this section, or any combination of those offenses, arising from two or more separate incidents.

(3) The department may adopt rules, in accordance with federal regulations, establishing guidelines, including conditions, under which a disqualification for life under subsection (2) of this section may be reduced to a period of not less than ten years.

(4) A person is disqualified from driving a commercial motor vehicle for life who ((uses));

(a) Uses a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by chapter 69.50 RCW, or possession with intent to manufacture, distribute, or dispense a controlled substance, as defined by chapter 69.50 RCW; or

(b) Uses a motor vehicle in the commission of any trafficking offense under RCW 9A.40.100, which offenses are deemed consistent with felonies involving severe forms of trafficking in persons as described by the federal motor carrier safety administration.

(5)(a) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if:

(A) Convicted of or found to have committed a second serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there has been a prior serious traffic violation; or

(ii) Not less than one hundred twenty days if:

(A) Convicted of or found to have committed a third or subsequent serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there has been two or more prior serious traffic violations.

(b) The disqualification period under (a)(ii) of this subsection must be in addition to any other previous period of disqualification.

(c) For purposes of determining prior serious traffic violations under this subsection, each conviction of or finding that a driver has committed a serious traffic violation while driving a commercial motor vehicle or noncommercial motor vehicle, arising from a separate incident occurring within a three-year period, must be counted.

(6) A person is disqualified from driving a commercial motor vehicle for a period of:

(a) Not less than one hundred eighty days nor more than one year if convicted of or found to have committed a first violation of an out-of-service order while driving a commercial vehicle;

(b) Not less than two years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed two violations of out-of-service orders while driving a commercial motor vehicle in separate incidents;

(c) Not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed three or more violations of out-of-service orders while driving commercial motor vehicles in separate incidents;

(d) Not less than one hundred eighty days nor more than two years if the person is convicted of or is found to have committed a first violation of an out-of-service order while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver. A person is disqualified for a period of not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver.

(7) A person is disqualified from driving a commercial motor vehicle if a report has been received by the department under RCW 46.25.125 that the person has received a verified positive drug test or positive alcohol confirmation test as part of the testing program conducted under 49 C.F.R. 40. A disqualification under this subsection remains in effect until the person undergoes a drug and alcohol assessment by a substance abuse professional meeting the requirements of 49 C.F.R. 40, and the person presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment and/or education program as recommended by the substance abuse professional, and until the person has met the requirements of RCW 46.25.100. The substance abuse professional shall forward a diagnostic evaluation and treatment recommendation to the department of licensing for use in determining the person's eligibility for driving a commercial motor vehicle. Persons who are disqualified under this subsection more than twice in a five-year period are disqualified for life.

(8)(a) A person is disqualified from driving a commercial motor vehicle for the period of time specified in (b) of this subsection if he or she is convicted of or is found to have committed one of the following six offenses at a railroad-highway grade crossing while operating a commercial motor vehicle in violation of a federal, state, or local law or regulation:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train or other on-track equipment;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement officer at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(b) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if the driver is convicted of or is found to have committed a first violation of a railroad-highway grade crossing violation;

(ii) Not less than one hundred twenty days if the driver is convicted of or is found to have committed a second railroad-highway grade crossing violation in separate incidents within a three-year period;

(iii) Not less than one year if the driver is convicted of or is found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents within a three-year period.

(9) A person is disqualified from driving a commercial motor vehicle for not more than one year if a report has been received by the department from the federal motor carrier safety administration that the person's driving has been determined to constitute an imminent hazard as defined by 49 C.F.R. 383.5. A person who is simultaneously disqualified from driving a commercial motor vehicle under this subsection and under other provisions of this chapter, or under 49 C.F.R. 383.52, shall serve those disqualification periods concurrently.

(10) Within ten days after suspending, revoking, or canceling a commercial driver's license or disqualifying a driver from operating a commercial motor vehicle, the department shall update its records to reflect that action.

**NEW SECTION. Sec. 2.** This act takes effect September 23, 2022.

Passed by the Senate February 8, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 52

[Senate Bill 5676]

### PUBLIC EMPLOYEES' RETIREMENT SYSTEM PLAN 1 AND TEACHERS' RETIREMENT SYSTEM PLAN 1—BENEFIT INCREASE

AN ACT Relating to providing a benefit increase to certain retirees of the public employees' retirement system plan 1 and the teachers' retirement system plan 1; amending RCW 41.32.4992 and 41.40.1987; and providing an effective date.

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

Sec. 1. RCW 41.32.4992 and 2020 c 329 s 2 are each amended to read as follows:

(1) Beneficiaries who are receiving a monthly benefit from the teachers' retirement system plan 1 on July 1, 2017, shall receive, effective July 1, 2018, an increase to their monthly benefit of one and one-half percent multiplied by the beneficiaries' monthly benefit, not to exceed sixty-two dollars and fifty cents.

(2) Beneficiaries who are receiving a monthly benefit from the teachers' retirement system plan 1 on July 1, 2019, shall receive, effective July 1, 2020, an increase to their monthly benefit of three percent multiplied by the beneficiaries' monthly benefit, not to exceed sixty-two dollars and fifty cents.

(3) Beneficiaries who are receiving a monthly benefit from the teachers' retirement system plan 1 on July 1, 2021, shall receive, effective July 1, 2022, an increase to their monthly benefit of three percent multiplied by the beneficiaries' monthly benefit, not to exceed one hundred ten dollars and zero cents.

(4) This section does not apply to those receiving benefits pursuant to RCW 41.32.489 or 41.32.540.

Sec. 2. RCW 41.40.1987 and 2020 c 329 s 1 are each amended to read as follows:

(1) Beneficiaries who are receiving a monthly benefit from the public employees' retirement system plan 1 on July 1, 2017, shall receive, effective July 1, 2018, an increase to their monthly benefit of one and one-half percent multiplied by the beneficiaries' monthly benefit, not to exceed sixty-two dollars and fifty cents.

(2) Beneficiaries who are receiving a monthly benefit from the public employees' retirement system plan 1 on July 1, 2019, shall receive, effective July 1, 2020, an increase to their monthly benefit of three percent multiplied by the beneficiaries' monthly benefit, not to exceed sixty-two dollars and fifty cents.

(3) Beneficiaries who are receiving a monthly benefit from the public employees' retirement system plan 1 on July 1, 2021, shall receive, effective July 1, 2022, an increase to their monthly benefit of three percent multiplied by the beneficiaries' monthly benefit, not to exceed one hundred ten dollars and zero cents.

(4) This section does not apply to those receiving benefits pursuant to RCW 41.40.1984.

NEW SECTION. Sec. 3. This act takes effect July 1, 2022.

Passed by the Senate February 2, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

**CHAPTER 53**

[Substitute Senate Bill 5701]

**WORKERS' COMPENSATION—MONTHLY WAGES—INMATES AND INSTITUTIONAL PATIENTS**

AN ACT Relating to determining monthly wages for workers' compensation; amending RCW 51.08.178; and creating a new section.

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

**Sec. 1.** RCW 51.08.178 and 2007 c 297 s 1 are each amended to read as follows:

(1) For the purposes of this title, the monthly wages the worker was receiving from all employment at the time of injury shall be the basis upon which compensation is computed unless otherwise provided specifically in the statute concerned. In cases where the worker's wages are not fixed by the month, they shall be determined by multiplying the daily wage the worker was receiving at the time of the injury:

- (a) By five, if the worker was normally employed one day a week;
- (b) By nine, if the worker was normally employed two days a week;
- (c) By thirteen, if the worker was normally employed three days a week;
- (d) By eighteen, if the worker was normally employed four days a week;
- (e) By twenty-two, if the worker was normally employed five days a week;
- (f) By twenty-six, if the worker was normally employed six days a week;
- (g) By thirty, if the worker was normally employed seven days a week.

The term "wages" shall include the reasonable value of board, housing, fuel, or other consideration of like nature received from the employer as part of the contract of hire, but shall not include overtime pay except in cases under subsection (2) of this section. As consideration of like nature to board, housing, and fuel, wages shall also include the employer's payment or contributions, or appropriate portions thereof, for health care benefits unless the employer continues ongoing and current payment or contributions for these benefits at the same level as provided at the time of injury. However, tips shall also be considered wages only to the extent such tips are reported to the employer for federal income tax purposes. The daily wage shall be the hourly wage multiplied by the number of hours the worker is normally employed. The number of hours the worker is normally employed shall be determined by the department in a fair and reasonable manner, which may include averaging the number of hours worked per day.

(2) In cases where (a) the worker's employment is exclusively seasonal in nature or (b) the worker's current employment or his or her relation to his or her employment is essentially part-time or intermittent, the monthly wage shall be determined by dividing by twelve the total wages earned, including overtime, from all employment in any twelve successive calendar months preceding the injury which fairly represent the claimant's employment pattern.

(3) If, within the twelve months immediately preceding the injury, the worker has received from the employer at the time of injury a bonus as part of the contract of hire, the average monthly value of such bonus shall be included in determining the worker's monthly wages.

(4) In cases where a wage has not been fixed or cannot be reasonably and fairly determined, the monthly wage shall be computed on the basis of the usual wage paid other employees engaged in like or similar occupations where the wages are fixed.

(5)(a) In the case of any person described in RCW 49.46.010(3)(k), the monthly wage shall be computed on the basis of the usual wage paid other employees engaged in like or similar occupations where the wages are fixed.

(b) For purposes of this subsection (5), "other employees" does not include any person described in RCW 49.46.010(3)(k).

NEW SECTION. Sec. 2. By December 1, 2024, and in compliance with RCW 43.01.036, the department of labor and industries must submit a report to the legislature that details the number of claims which were impacted by this act from July 1, 2022, to June 30, 2024.

Passed by the Senate February 12, 2022.

Passed by the House March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 54

[Senate Bill 5747]

### MASTER OIL AND HAZARDOUS SUBSTANCE SPILL PREVENTION AND CONTINGENCY PLAN—VARIOUS PROVISIONS

AN ACT Relating to the statewide master oil and hazardous substance spill prevention and contingency plan; and amending RCW 90.56.060.

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

**Sec. 1.** RCW 90.56.060 and 2010 1st sp.s. c 7 s 73 are each amended to read as follows:

(1)(a) The department shall prepare and annually update a statewide master oil and hazardous substance spill prevention and contingency plan. In preparing the plan, the department shall consult with an advisory committee representing diverse interests concerned with oil and hazardous substance spills, including the United States coast guard, the federal environmental protection agency, other appropriate federal agencies, appropriate agencies from other states, interested federally recognized tribes, state agencies, local governments, port districts, private facilities, environmental organizations, oil companies, shipping companies, ~~((containment and cleanup contractors))~~ spill management, cleanup, and containment contractors, tow companies, and hazardous substance manufacturers.

(b) For the purposes of this subsection, "spill management" means managing:

(i) Some or all aspects of a response, containment, and cleanup of a spill and utilizing an incident command or unified command structure; or

(ii) Wildlife rehabilitation and recovery services for a spill response.

(2) The state master plan prepared under this section shall at a minimum:

(a) Take into consideration the elements of oil spill prevention and contingency plans approved or submitted for approval pursuant to this chapter and chapter 88.46 RCW and oil and hazardous substance spill contingency plans prepared pursuant to other state or federal law or prepared by federal agencies and regional entities;

(b) State the respective responsibilities as established by relevant statutes and rules of each of the following in the prevention of and the assessment, containment, and cleanup of a worst case spill of oil or hazardous substances into the environment of the state: (i) State agencies; (ii) local governments; (iii) appropriate federal agencies; (iv) facility operators; (v) property owners whose land or other property may be affected by the oil or hazardous substance spill; ~~((and))~~ (vi) federally recognized tribes; and (vii) other parties identified by the

department as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance spill;

(c) State the respective responsibilities of the parties identified in (b) of this subsection in an emergency response;

(d) Identify actions necessary to reduce the likelihood of spills of oil and hazardous substances;

(e) Identify and obtain mapping of environmentally sensitive areas at particular risk to oil and hazardous substance spills;

(f) Establish an incident command system for responding to oil and hazardous substances spills; and

(g) Establish a process for immediately notifying affected tribes of any oil spill.

(3) In preparing and updating the state master plan, the department shall:

(a) Consult with federal, provincial, municipal, and community officials, other state agencies, the state of Oregon, the state of Idaho, and with representatives of affected regional organizations;

(b) Invite consultation and engagement from federally recognized tribes;

(c) Submit the draft plan to the public for review and comment;

~~((f))~~ (d) Submit to the appropriate standing committees of the legislature for review, not later than November 1st of each year, the plan and any annual revision of the plan; and

~~((d))~~ (e) Require or schedule unannounced oil spill drills as required by RCW 90.56.260 to test the sufficiency of oil spill contingency plans approved under RCW 90.56.210 and as required under RCW 88.46.068, 88.46.139, and 88.46.220 for plans approved under RCW 88.46.060.

(4) The department shall evaluate the functions of advisory committees created by the department regarding oil spill prevention, preparedness, and response programs, and shall revise or eliminate those functions which are no longer necessary.

Passed by the Senate February 10, 2022.

Passed by the House March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 55

[Senate Bill 5763]

### SUBPREVAILING WAGE CERTIFICATES—INDIVIDUALS WITH DISABILITIES—REPEAL

AN ACT Relating to eliminating subprevailing wage certificates for individuals with disabilities; and repealing RCW 39.12.022.

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

NEW SECTION. Sec. 1. RCW 39.12.022 (Vocationally handicapped—Exemption from RCW 39.12.020—Procedure) and 1972 ex.s. c 91 s 1 are each repealed.

Passed by the Senate February 2, 2022.

Passed by the House March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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**CHAPTER 56**

[Engrossed Senate Bill 5800]

**TAXES AND REVENUE—VARIOUS PROVISIONS**

AN ACT Relating to modifying tax and revenue laws in a manner that is estimated to not affect state or local tax collections by easing compliance burdens for taxpayers, clarifying ambiguities, making technical corrections, and providing administrative efficiencies; amending RCW 14.08.122, 19.02.115, 82.02.210, 82.04.299, 82.08.025661, 82.08.9997, 82.12.02685, 82.12.9997, 82.32.330, 82.32.534, 82.32.790, 82.62.030, and 84.52.065; and creating a new section.

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

**Sec. 1.** RCW 14.08.122 and 1999 c 302 s 1 are each amended to read as follows:

An airport operator may adopt all regulations necessary for rental and use of airport facilities and for the expeditious collection of airport charges. The regulations may also establish procedures for the enforcement of these regulations by the airport operator. The regulations shall include the following:

(1) Procedures authorizing airport personnel to take reasonable measures including, but not limited to, the use of chains, ropes, and locks to secure aircraft within the airport facility so that the aircraft are in the possession and control of the airport operator and cannot be removed from the airport. These procedures may be used if an owner hangaring or parking an aircraft at the airport fails, after being notified that charges are owing and of the owner's right to contest that such charges are owing, to pay the airport charges owed or to commence legal proceedings. Notification shall be by registered mail to the owner at his or her last known address. In the case of an aircraft where an owner's address cannot be determined or obtained after reasonable effort, the airport operator need not give such notice prior to securing the aircraft. At the time of securing the aircraft, an authorized airport employee shall attach to the aircraft a readily visible notice and shall make a reasonable attempt to send a copy of the notice to the owner at his or her last known address by registered mail, return receipt requested, and an additional copy of the notice by first-class mail. The notice shall be of a reasonable size and shall contain the following information:

- (a) The date and time the notice was attached;
- (b) A reasonable description of the aircraft;
- (c) The identity of the authorized employee;
- (d) The amount of airport charges owing;
- (e) A statement that if the account is not paid in full within ninety days from the time the notice was attached the aircraft may be sold at public auction to satisfy the airport charges;
- (f) A statement of the owner's right to commence legal proceedings to contest the charges owing and to have the aircraft released upon posting of an adequate cash bond or other security; and
- (g) The address and telephone number where additional information may be obtained concerning the release of the aircraft.

(2) Procedures authorizing airport personnel at their discretion to move aircraft to an area within the airport operator's control or for storage with private persons under the airport operator's control as bailees of the airport facility. Costs of any such procedure shall be paid by the aircraft's owner.



(3) If an aircraft is secured under subsection (1) of this section or moved under conditions authorized by subsection (2) of this section the owner who is obligated for hangaring or parking or other airport charges may regain possession of the aircraft by:

(a) Making arrangements satisfactory with the airport operator for the immediate removal of the aircraft from the airport's hangar, or making arrangements for authorized parking; and

(b) By making payment to the airport operator of all airport charges or by posting with the airport operator a sufficient cash bond or other security acceptable to such operator, to be held in trust by the airport operator pending written agreement of the parties with respect to payment by the aircraft owner of the amount owing, or pending resolution of charges in a civil action in a court of competent jurisdiction. Upon written agreement or judicial resolution, the trust shall terminate and the airport operator shall receive so much of the bond or other security as is necessary to satisfy the agreement, or any judgment, costs, and interest as may be awarded to the airport operator. The balance shall be refunded immediately to the owner at the owner's last known address by registered mail, return receipt requested. The airport operator shall send to the owner by first-class mail a notice that the balance of funds was forwarded to him or her by registered mail, return receipt requested.

(4) If an aircraft parked or hangared at an airport is abandoned, the airport operator may authorize the public sale of the aircraft by authorized personnel to the highest and best bidder for cash as follows:

(a) If an aircraft has been secured by the airport operator under subsection (1) of this section and is not released to the owner under the bonding provisions of this section within ninety days after notifying or attempting to notify the owner under subsection (1) of this section, or in all other cases, for ninety days after the airport operator secures the aircraft, the aircraft shall be conclusively presumed to have been abandoned by the owner;

(b) Before the aircraft is sold, the owner of the aircraft shall be given at least twenty days' notice of sale by registered mail, return receipt requested, if the name and address of the owner are known, and the notice of sale shall be published at least once, more than ten but less than twenty days before the sale, in a newspaper of general circulation in the county in which the airport is located. The notice shall include the name of the aircraft, if any, its aircraft identification number, the last known owner and address, the time and place of sale, the amount of airport charges that will be owing at the time of sale, a reasonable description of the aircraft to be sold and a statement that the airport operator may bid all or part of its airport charges at the sale and may become a purchaser at the sale;

(c) Before the aircraft is sold, any person seeking to redeem an impounded aircraft under this section may commence a lawsuit in the superior court of the county in which the aircraft was impounded, to contest the validity of the impoundment or the amount of airport charges owing. Such lawsuit must be commenced within ten days of the date the notification was provided under subsection (1) of this section, or the right to a hearing is waived and the owner is liable for any airport charges owing the airport operator. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs;

(d) The proceeds of a sale under this section shall first be applied to payment of airport charges owed. The balance, if any, shall be deposited with the department of revenue to be held in trust for the owner or owners and lienholders for a period of one year from the date of sale. If more than one owner appears on the aircraft title, and/or if any liens appear on the title, the department must, if a claim is made, interplead the balance into a court of competent jurisdiction for distribution. The department may release the balance to the legal owner provided that the claim is made within one year of sale and only one legal owner and no lienholders appear on the title. If no valid claim is made within one year of the date of sale, the excess funds from the sale shall be deposited in the ~~((aircraft search and rescue, safety, and education account created in RCW 47.68.236))~~ aeronautics account created under RCW 82.42.090. If the sale is for a sum less than the applicable airport charges, the airport operator is entitled to assert a claim against the aircraft owner or owners for the deficiency;

(e) In the event that no one purchases the aircraft at a sale, or that the aircraft is not removed from the premises or other arrangements are not made within ten days of the sale, title to the aircraft shall revert to the airport operator.

(5) The regulations authorized under this section shall be enforceable only if:

(a) The airport operator has had its tariff and/or regulations, including any and all regulations authorizing the impoundment of an aircraft that is the subject of delinquent airport charges, conspicuously posted at the airport manager's office at all times~~(( $\frac{1}{2}$ ))~~;

(b) All impounding remedies available to the airport operator are included in any written contract for airport charges between an airport operator and an aircraft owner; and

(c) All rules and regulations authorized under this section are adopted either pursuant to chapter 34.05 RCW, or by resolution of the appropriate legislative authority, as applicable.

**Sec. 2.** RCW 19.02.115 and 2017 c 323 s 701 are each amended to read as follows:

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

(a) "Disclose" means to make known to any person in any manner licensing information.

(b) "Licensing information" means any information created or obtained by the department in the administration of this chapter and chapters 19.80 and 59.30 RCW, which information relates to any person who: (i) Has applied for or has been issued a license or trade name; or (ii) has been issued an assessment or delinquency fee. Licensing information includes initial and renewal business license applications, and business licenses.

(c) "Person" has the same meaning as in RCW 82.04.030 and also includes the state and the state's departments and institutions.

(d) "State agency" means every Washington state office, department, division, bureau, board, commission, or other state agency.

(2) Licensing information is confidential and privileged, and except as authorized by this section, neither the department nor any other person may disclose any licensing information. Nothing in this chapter requires any person possessing licensing information made confidential and privileged by this

section to delete information from such information so as to permit its disclosure.

(3) This section does not prohibit the department of revenue, or any other person receiving licensing information from the department under this subsection, from:

(a) Disclosing licensing information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In which the person about whom such licensing information is sought and the department, another state agency, or a local government are adverse parties in the proceeding; or

(ii) Involving a dispute arising out of the department's administration of chapter 19.80 or 59.30 RCW, or this chapter if the licensing information relates to a party in the proceeding;

(b) Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to chapter 34.05 RCW, such licensing information regarding a license applicant or license holder to such license applicant or license holder or to such person or persons as that license applicant or license holder may designate in a request for, or consent to, such disclosure, or to any other person, at the license applicant's or license holder's request, to the extent necessary to comply with a request for information or assistance made by the license applicant or license holder to such other person. However, licensing information not received from the license applicant or holder must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the license applicant, license holder, or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies, which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the license applicant or license holder by the order of any court;

(c) Publishing statistics so classified as to prevent the identification of particular licensing information;

(d) Disclosing licensing information for official purposes only, to the governor or attorney general, or to any state agency, or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions, or licensing;

(e) Permitting the department's records to be audited and examined by the proper state officer, his or her agents and employees;

(f) Disclosing any licensing information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only (~~in response to a search warrant, subpoena, or other court order, unless the disclosure is~~) for the purpose of review, investigation, or enforcement activities related to a license or license application. A peace officer or county prosecuting attorney who receives the licensing information may disclose that licensing information only (~~for use in the investigation and a related court proceeding, or in the court proceeding for which the licensing information originally was sought~~) in conformance with restrictions found in this section;

(g) Disclosing, in a manner that is not associated with other licensing information, the name of a license applicant or license holder, entity type, registered trade name, business address, mailing address, unified business identifier number, list of licenses issued to a person through the business licensing system established in this chapter and their issuance and expiration dates, and the dates of opening of a business. This subsection may not be construed as giving authority to the department to give, sell, or provide access to any list of persons for any commercial purpose;

(h) Disclosing licensing information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;

(i) Disclosing any licensing information when the disclosure is specifically authorized under any other section of the Revised Code of Washington;

(j) Disclosing licensing information to the proper officer of the licensing or tax department of any city, town, or county of this state, for official purposes. If the licensing information does not relate to a license issued by the city, town, or county requesting the licensing information, disclosure may be made only if the laws of the requesting city, town, or county grants substantially similar privileges to the proper officers of this state; or

(k) Disclosing licensing information to the federal government for official purposes.

(4) Notwithstanding anything to the contrary in this section, a state agency or local government agency may disclose licensing information relating to a license issued on its behalf by the department pursuant to this chapter if the disclosure is authorized by another statute, local law, or administrative rule.

(5) The department, any other state agency, or local government may refuse to disclose licensing information that is otherwise disclosable under subsection (3) of this section if such disclosure would violate federal law or any information sharing agreement between the state or local government and federal government.

(6) Any person acquiring knowledge of any licensing information in the course of his or her employment with the department and any person acquiring knowledge of any licensing information as provided under subsection (3)(d), (e), (f), (j), or (k) of this section, who discloses any such licensing information to another person not entitled to knowledge of such licensing information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person must forfeit such office or employment and is incapable of holding any public office or employment in this state for a period of two years thereafter.

**Sec. 3.** RCW 82.02.210 and 2007 c 6 s 105 are each amended to read as follows:

(1) It is the intent of the legislature that Washington join as a member state in the streamlined sales and use tax agreement referred to in chapter 82.58 RCW. The agreement provides for a simpler and more uniform sales and use tax structure among states that have sales and use taxes. The intent of the legislature is to bring Washington's sales and use tax system into compliance with the agreement so that Washington may join as a member state and have a voice in

the development and administration of the system, and to substantially reduce the burden of tax compliance on sellers.

(2) Chapter 168, Laws of 2003 does not include changes to Washington law that may be required in the future and that are not fully developed under the agreement. These include, but are not limited to, changes relating to online registration, reporting, and remitting of payments by businesses for sales and use tax purposes, monetary allowances for sellers and their agents, sourcing, and amnesty for businesses registering under the agreement.

(3) It is the intent of the legislature that the provisions of this title relating to the administration and collection of state and local sales and use taxes be interpreted and applied consistently with the agreement.

(4) ~~The department of revenue shall report to the fiscal committees of the legislature ((on January 1, 2004, and each January 1st thereafter, on the development of the agreement and shall recommend changes to the sales and use tax structure and propose legislation as may be necessary to keep Washington in compliance with the agreement)) by January 1st of the year immediately following any year during which the streamlined sales and use tax agreement is amended, if legislation is required to keep Washington in compliance with the agreement.~~

**Sec. 4.** RCW 82.04.299 and 2020 c 2 s 4 are each amended to read as follows:

(1)(a) Beginning with business activities occurring on or after April 1, 2020, in addition to the taxes imposed under RCW 82.04.290(2), a workforce education investment surcharge is imposed on select advanced computing businesses. The surcharge is equal to the gross income of the business subject to the tax under RCW 82.04.290(2), multiplied by the rate of 1.22 percent.

(b) Except as provided in (e) of this subsection (1), in no case will the combined surcharge imposed under this subsection (1) paid by all members of an affiliated group be more than nine million dollars annually.

(c) For persons subject to the surcharge imposed under this subsection (1) that report under one or more tax classifications, the surcharge applies only to business activities taxed under RCW 82.04.290(2).

(d) The surcharge imposed under this subsection (1) must be reported and paid on a quarterly basis in a manner as required by the department. Returns and amounts payable under this subsection (1) are due by the last day of the month immediately following the end of the reporting period covered by the return. All other taxes must be reported and paid as required under RCW 82.32.045.

(e)(i) To aid in the effective administration of the surcharge in this subsection (1), the department may require persons believed to be engaging in advanced computing or affiliated with a person believed to be engaging in advanced computing to disclose whether they are a member of an affiliated group and, if so, to identify all other members of the affiliated group subject to the surcharge.

(ii) If the department establishes, by clear, cogent, and convincing evidence, that one or more members of an affiliated group, with intent to evade the surcharge under this subsection (1), failed to fully comply with this subsection (1)(e), the department must assess against that person, or those persons collectively, a penalty equal to fifty percent of the amount of the total surcharge payable by all members of that affiliated group for the calendar year during

which the person or persons failed to fully comply with this subsection (1)(e). The penalty under this subsection (1)(e) is in lieu of and not in addition to the evasion penalty under RCW 82.32.090(7).

(f) For the purposes of this subsection (1) the following definitions apply:

(i) "Advanced computing" means designing or developing computer software or computer hardware, whether directly or contracting with another person, including ~~((modifications))~~; Modifications to computer software or computer hardware~~((;))~~; cloud computing services~~((;))~~; or operating ~~((an online))~~ as a marketplace facilitator as defined by RCW 82.08.0531, an online search engine, or online social networking platform;

(ii) "Affiliate" and "affiliated" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(iii) "Affiliated group" means a group of two or more persons that are affiliated with each other;

(iv) "Cloud computing services" means on-demand delivery of computing resources, such as networks, servers, storage, applications, and services, over the internet;

(v) "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise; and

(vi) "Select advanced computing business" means a person who is a member of an affiliated group with at least one member of the affiliated group engaging in the business of advanced computing, and the affiliated group has worldwide gross revenue of more than twenty-five billion dollars during the immediately preceding calendar year. A person who is primarily engaged within this state in the provision of commercial mobile service, as that term is defined in 47 U.S.C. Sec. 332(d)(1), shall not be considered a select advanced computing business. A person who is primarily engaged in this state in the operation and provision of access to transmission facilities and infrastructure that the person owns or leases for the transmission of voice, data, text, sound, and video using wired telecommunications networks shall not be considered a select advanced computing business. A person that is primarily engaged in business as a "financial institution" as defined in RCW 82.04.29004, as that section existed on January 1, 2020, shall not be considered a select advanced computing business. For purposes of this subsection (1)(f)(vi), "primarily" is determined based on gross income of the business.

(2) The workforce education investment surcharge under this section does not apply to any hospital as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW.

(3) Revenues from the surcharge under this section must be deposited directly into the workforce education investment account established in RCW 43.79.195.

(4) The department has the authority to determine through an audit or other investigation whether a person is subject to the surcharge imposed in this section.

**Sec. 5.** RCW 82.08.025661 and 2016 c 191 s 2 are each amended to read as follows:

(1) Subject to the requirements of this section, the tax levied by RCW 82.08.020 does not apply to:

(a) Charges for labor and services rendered in respect to the constructing of new buildings, made to: (i) An eligible maintenance repair operator engaged in the maintenance of airplanes; or (ii) a port district, political subdivision, or municipal corporation, if the new building is to be leased to an eligible maintenance repair operator engaged in the maintenance of airplanes;

(b) Sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing; or

(c) Charges made for labor and services rendered in respect to installing, during the course of constructing such buildings, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565.

(2)(a) The exemption in this section is in the form of a remittance. A buyer claiming an exemption from the tax in the form of a remittance under this section must pay all applicable state and local sales taxes imposed under RCW 82.08.020 and chapter 82.14 RCW on all purchases qualifying for the exemption.

(b) The department must determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer may on a quarterly basis submit an application, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer must retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the location and size of new structures; and construction invoices and documents.

(c) The department must on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(d) A person may request a remittance for state sales and use taxes after the aircraft maintenance and repair station has been operationally complete for four years, but not sooner than December 1, 2021. However, the department may not remit the state portion of sales and use taxes if the person did not report at least one hundred average employment positions to the employment security department for (~~September~~) October 1, 2020, through September (~~(4)~~) 30, 2021, with an average annualized wage of eighty thousand dollars. A person must provide the department with the unemployment insurance number provided to the employment security department for the establishment.

(e) A person may request a remittance for local sales and use taxes on or after July 1, 2016.

(3) In order to qualify under this section before starting construction, the port district, political subdivision, or municipal corporation must have entered into an agreement with an eligible maintenance repair operator to build such a facility. A person claiming the exemption under this section is subject to all the requirements of chapter 82.32 RCW. In addition, the person must file a complete annual report with the department under RCW 82.32.534.

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

(a) "Eligible maintenance repair operator" means a person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and located in an international airport owned by a county with a population greater than one million five hundred thousand.

(b) "Operationally complete" means constructed to the point of being functionally capable of hosting the repair and maintenance of airplanes.

(5) This section expires January 1, 2027.

**Sec. 6.** RCW 82.08.9997 and 2015 c 207 s 4 are each amended to read as follows:

The taxes imposed by this chapter do not apply to the retail sale of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products covered by an agreement entered into under RCW 43.06.490. "Marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as defined in RCW 69.50.101. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this section.

**Sec. 7.** RCW 82.12.02685 and 2021 c 250 s 2 are each amended to read as follows:

(1) The provisions of this chapter shall not apply in respect to the use of tangible personal property that becomes an ingredient or component of buildings or other structures, in which at least 50 percent of housing units in the development are used as farmworker housing, during the course of constructing, repairing, decorating, or improving the buildings or other structures by any person.

(2) The exemption provided in this section for farmworker housing provided on a year-round basis only applies if that housing is built to the current building code for single-family or multifamily dwellings according to the state building code, chapter 19.27 RCW.

(3) Any farmworker housing built under this section shall be used according to this section for at least five consecutive years from the date the housing is approved for occupancy, or the full amount of a tax otherwise due shall be immediately due and payable together with interest, but not penalties, from the date the housing is approved for occupancy until the date of payment. If at any time farmworker housing ceases to be used in the manner specified in subsection (2) of this section, the full amount of tax otherwise due shall be immediately due and payable with interest, but not penalties, from the date the housing ceases to be used as farmworker housing until the date of payment.

(4) The exemption provided in this section shall not apply to housing built for the occupancy of an employer, family members of an employer, or persons owning stock or shares in a farm partnership or corporation business.

(5) If during any agricultural season in the qualifying five years under subsection (3) of this section the housing is occupied by a farmworker who does not have an H-2A visa, then the housing will be considered not to be exclusively built for workers on an H-2A visa.

(6) The definitions in RCW 82.08.02745(6) apply to this section.

(7) This section expires January 1, 2032.



**Sec. 8.** RCW 82.12.9997 and 2015 c 207 s 5 are each amended to read as follows:

The taxes imposed by this chapter do not apply to the use of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products covered by an agreement entered into under RCW 43.06.490. "Marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as defined in RCW 69.50.101. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this section.

**Sec. 9.** RCW 82.32.330 and 2021 c 145 s 18 are each amended to read as follows:

(1) For purposes of this section:

(a) "Disclose" means to make known to any person in any manner whatever a return or tax information;

(b) "Return" means a tax or information return or claim for refund required by, or provided for or permitted under, the laws of this state which is filed with the department of revenue by, on behalf of, or with respect to a person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed;

(c) "Tax information" means (i) a taxpayer's identity, (ii) the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability deficiencies, overassessments, or tax payments, whether taken from the taxpayer's books and records or any other source, (iii) whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, (iv) a part of a written determination that is not designated as a precedent and disclosed pursuant to RCW 82.32.410, or a background file document relating to a written determination, and (v) other data received by, recorded by, prepared by, furnished to, or collected by the department of revenue with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of a person under the laws of this state for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Except as provided by RCW 82.32.410, nothing in this chapter requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure;

(d) "State agency" means every Washington state office, department, division, bureau, board, commission, or other state agency;

(e) "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer; and

(f) "Department" means the department of revenue or its officer, agent, employee, or representative.

(2) Returns and tax information are confidential and privileged, and except as authorized by this section, neither the department of revenue nor any other person may disclose any return or tax information.

(3) This section does not prohibit the department of revenue from:

(a) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In respect of any tax imposed under the laws of this state if the taxpayer or its officer or other person liable under this title or chapter 83.100 RCW is a party in the proceeding;

(ii) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding; or

(iii) Brought by the department under RCW 18.27.040 or 19.28.071;

(b) Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to chapter 34.05 RCW, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

(c) Disclosing the name of a taxpayer against whom a warrant under RCW 82.32.210 has been either issued or filed and remains outstanding for a period of at least ten working days. The department is not required to disclose any information under this subsection if a taxpayer has entered a deferred payment arrangement with the department for the payment of a warrant that has not been filed and is making payments upon such deficiency that will fully satisfy the indebtedness within twelve months;

(d) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

(e) Disclosing such return or tax information, for official purposes only, to the governor or attorney general, or to any state agency, or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions;

(f) Permitting the department of revenue's records to be audited and examined by the proper state officer, his or her agents and employees;

(g) Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought;

(h) Disclosing any such return or tax information to the proper officer of the internal revenue service of the United States, the Canadian government or

provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of this state;

(i) Disclosing any such return or tax information to the United States department of justice, including the bureau of alcohol, tobacco, firearms and explosives, the department of defense, the immigration and customs enforcement and the customs and border protection agencies of the United States department of homeland security, the United States coast guard, the alcohol and tobacco tax and trade bureau of the United States department of treasury, and the United States department of transportation, or any authorized representative of these federal agencies, for official purposes;

(j) Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

(k) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers, reseller permit numbers and the expiration date and status of such permits, North American industry classification system or standard industrial classification code of a taxpayer, and the dates of opening and closing of business. This subsection may not be construed as giving authority to the department to give, sell, or provide access to any list of taxpayers for any commercial purpose;

(l) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is maintained by a court of record and is not otherwise prohibited from disclosure;

(m) Disclosing such return or tax information to the United States department of agriculture for the limited purpose of investigating food stamp fraud by retailers;

(n) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the department for a filed tax warrant, judgment, or lien against the real property;

(o) Disclosing to a person against whom the department has asserted liability as a successor under RCW 82.32.140 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;

(p) Disclosing real estate excise tax affidavit forms filed under RCW 82.45.150 in the possession of the department, including real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax;

(q) Disclosing to local taxing jurisdictions the identity of sellers granted relief under RCW 82.32.430(5)(b)(i) and the period for which relief is granted;

(r) Disclosing such return or tax information to the court in respect to the department's application for a subpoena under RCW 82.32.117;

(s) Disclosing to a person against whom the department has asserted liability under RCW 83.100.120 return or tax information pertaining to that person's liability for tax under chapter 83.100 RCW;

(t) Disclosing such return or tax information to the streamlined sales tax governing board, member states of the streamlined sales tax governing board, or authorized representatives of such board or states, for the limited purposes of:

(i) Conducting on behalf of member states sales and use tax audits of taxpayers; or

(ii) Auditing certified service providers or certified automated systems providers;

(u) Disclosing any such return or tax information when the disclosure is specifically authorized under any other section of the Revised Code of Washington;

(v) Disclosing to an individual to whom the department has issued an assessment under RCW 82.32.145 for unpaid trust fund taxes of a defunct or insolvent entity, return or tax information of that entity pertaining to those unpaid trust fund taxes; ~~((o))~~

(w) Disclosing any such return or tax information pursuant to a federal grand jury subpoena or subpoena issued by a United States attorney, only to be used in the criminal investigation and related court proceedings, or in the court proceeding for which the return or tax information originally was sought; or

(x) Disclosing any return or tax information to an individual when the return or tax information is related directly to that person's individual liability, as part of a marital community, for amounts due under a warrant issued under the authority of RCW 59.30.090 or 82.32.210.

(4)(a) The department may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (4). The disclosure must be in connection with the department's official duties relating to an audit, collection activity, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The department may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the department may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.

(b) Before disclosure of any tax return or tax information under this subsection (4), the department must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence must clearly identify the data, materials, or documents to be disclosed. The department may not disclose any tax return or tax information under this subsection (4) until the time period allowed in (c) of this subsection has expired or until the court has ruled on any challenge brought under (c) of this subsection.

(c) The person in possession of the data, materials, or documents to be disclosed by the department has twenty days from the receipt of the written request required under (b) of this subsection to petition the superior court of the county in which the petitioner resides for injunctive relief. The court must limit or deny the request of the department if the court determines that:

(i) The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;

(ii) The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the department, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or

(iii) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(d) The department must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(e) Requesting information under (b) of this subsection that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

(5) Service of a subpoena issued under RCW 82.32.117 does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena under RCW 82.32.117 may disclose the existence or content of the subpoena to that person's legal counsel.

(6) Any person acquiring knowledge of any return or tax information in the course of his or her employment with the department of revenue and any person acquiring knowledge of any return or tax information as provided under subsection (3) (e), (f), (g), (h), (i), (m), (v), and (w) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person must forfeit such office or employment and is incapable of holding any public office or employment in this state for a period of two years thereafter.

**Sec. 10.** RCW 82.32.534 and 2021 c 145 s 19 are each amended to read as follows:

(1)(a)(i) Beginning in calendar year 2018, every person claiming a tax preference that requires an annual tax performance report under this section must file a complete annual report with the department. The report is due by May 31st of the year following any calendar year in which a person becomes eligible to claim the tax preference that requires a report under this section.

(ii) If the tax preference is a deferral of tax, the first annual tax performance report must be filed by May 31st of the calendar year following the calendar year in which the investment project is certified by the department as operationally complete(~~(, and an)~~). An annual tax performance report must also be filed by May 31st of each ((of the seven)) succeeding calendar year((s)) through the calendar year in which the deferred taxes are fully repaid or are immediately due and payable because the recipient of the deferral is no longer eligible for the deferral.

(iii) The department may extend the due date for timely filing of annual reports under this section as provided in RCW 82.32.590.

(b) The report must include information detailing employment and wages for employment positions in Washington for the year that the tax preference was

claimed. However, persons engaged in manufacturing commercial airplanes or components of such airplanes may report employment and wage information per job at the manufacturing site for the year that the tax preference was claimed. The report must not include names of employees. The report must also detail employment by the total number of full-time, part-time, and temporary positions for the year that the tax preference was claimed. In lieu of reporting employment and wage data required under this subsection, taxpayers may instead opt to allow the employment security department to release the same employment and wage information from unemployment insurance records to the department and the joint legislative audit and review committee. This option is intended to reduce the reporting burden for taxpayers, and each taxpayer electing to use this option must affirm that election in accordance with procedures approved by the employment security department.

(c) Persons receiving the benefit of the tax preference provided by RCW 82.16.0421 or claiming any of the tax preferences provided by RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5) must indicate on the annual report the quantity of product produced in this state during the time period covered by the report.

(d) If a person filing a report under this section did not file a report with the department in the previous calendar year, the report filed under this section must also include employment and wage information for the calendar year immediately preceding the calendar year for which a tax preference was claimed.

(2)(a) As part of the annual report, the department and the joint legislative audit and review committee may request additional information necessary to measure the results of, or determine eligibility for, the tax preference.

(b) The report must include the amount of the tax preference claimed for the calendar year covered by the report. For a person that claimed an exemption provided in RCW 82.08.025651 or 82.12.025651, the report must include the amount of tax exempted under those sections in the prior calendar year for each general area or category of research and development for which exempt machinery and equipment and labor and services were acquired in the prior calendar year.

(3) Other than information requested under subsection (2)(a) of this section, the information contained in an annual report filed under this section is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(4)(a) Except as otherwise provided by law, if a person claims a tax preference that requires an annual report under this section but fails to submit a complete report by the due date or any extension under RCW 82.32.590, the department must declare:

(i) Thirty-five percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable;

(ii) An additional fifteen percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable if the person has previously been assessed under this subsection (4) for failure to submit a report under this section for the same tax preference; and

(iii) If the tax preference is a deferral of tax, the amount immediately due under this subsection is ~~((twelve and one-half percent of))~~ the deferred tax

divided by the number of years in the repayment period. If the economic benefits of the deferral are passed to a lessee, the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(b) The department may not assess interest or penalties on amounts due under this subsection.

(5) The department must use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers may be included in any category. The department must report these statistics to the legislature each year by December 31st.

(6) For the purposes of this section:

(a) "Person" has the meaning provided in RCW 82.04.030 and also includes the state and its departments and institutions.

(b) "Tax preference" has the meaning provided in RCW 43.136.021 and includes only the tax preferences requiring a report under this section.

**Sec. 11.** RCW 82.32.790 and 2019 c 449 s 2 are each amended to read as follows:

(1)(a) (~~Section 2, chapter 449, Laws of 2019, sections~~) Sections 510, 512, 514, 516, 518, 520, 522, and 524, chapter 37, Laws of 2017 3rd sp. sess., sections 9, 13, 17, 22, 24, 30, 32, and 45, chapter 135, Laws of 2017, sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, 3, and 5 through 10, chapter 149, Laws of 2003 are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington by January 1, 2024.

(b) For the purposes of this section:

(i) "Commercial operation" means the same as "commencement of commercial production" as used in RCW 82.08.965.

(ii) "Semiconductor microchip fabrication" means "manufacturing semiconductor microchips" as defined in RCW 82.04.426.

(iii) "Significant" means the combined investment of new buildings and new machinery and equipment in the buildings, at the commencement of commercial production, will be at least one billion dollars.

(2) The sections referenced in subsection (1) of this section take effect the first day of the month in which a contract for the construction of a significant semiconductor fabrication facility is signed, if the contract is signed and received by January 1, 2024, as determined by the director of the department of revenue.

(3)(a) The department of revenue must provide notice of the effective date of the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(b) If, after making a determination that a contract has been signed and the sections referenced in subsection (1) of this section are effective, the department discovers that commencement of commercial production did not take place within three years of the date the contract was signed, the department must make a determination that chapter 149, Laws of 2003 is no longer effective, and all taxes that would have been otherwise due are deemed deferred taxes and are immediately assessed and payable from any person reporting tax under RCW 82.04.240(2) or claiming an exemption or credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965, 82.08.970, 82.12.970, or 84.36.645. The

department is not authorized to make a second determination regarding the effective date of the sections referenced in subsection (1) of this section.

(4)(a) This section expires January 1, 2024, if the contingency in subsection (2) of this section does not occur by January 1, 2024, as determined by the department.

(b) The department must provide written notice of the expiration date of this section and the sections referenced in subsection (1) of this section to affected taxpayers, the legislature, and others as deemed appropriate by the department.

**Sec. 12.** RCW 82.62.030 and 2007 c 485 s 3 are each amended to read as follows:

(1)(a) A person shall be allowed a credit against the tax due under chapter 82.04 RCW as provided in this section. The credit shall equal: (i) Four thousand dollars for each qualified employment position with wages and benefits greater than forty thousand dollars annually that is directly created in an eligible business project and (ii) two thousand dollars for each qualified employment position with wages and benefits less than or equal to forty thousand dollars annually that is directly created in an eligible business project.

(b) For purposes of calculating the amount of credit under (a) of this subsection with respect to qualified employment positions as defined in RCW 82.62.010(8)(a)(ii):

(i) In determining the number of qualified employment positions, a fractional amount is rounded down to the nearest whole number; and

(ii) Wages and benefits for each qualified employment position shall be equal to the quotient derived by dividing: (A) The sum of the wages and benefits earned for the four consecutive full calendar quarter period for which a credit under this chapter is earned by all of the person's new seasonal employees hired during that period; by (B) the number of qualified employment positions plus any fractional amount subject to rounding as provided under (b)(i) of this subsection. For purposes of this chapter, a credit is earned for the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled.

(2) The department shall keep a running total of all credits allowed under this chapter during each fiscal year. The department shall not allow any credits which would cause the total to exceed seven million five hundred thousand dollars in any fiscal year. If all or part of an application for credit is disallowed under this subsection, the disallowed portion shall be carried over to the next fiscal year. However, the carryover into the next fiscal year is only permitted to the extent that the cap for the next fiscal year is not exceeded.

(3) No recipient may use the tax credits to decertify a union or to displace existing jobs in any community in the state.

(4)(a) The credit may be used against any tax due under chapter 82.04 RCW, and, except as otherwise provided under this subsection (4), may be carried over until used.

(b) Credits earned expire the first day of January of the year that is six years from the later of the year that:

(i) The department is notified by the recipient, or a representative of the recipient, that the recipient has ceased engaging in business within this state as those terms are defined in chapter 82.04 RCW;

(ii) The department closes the recipient's tax reporting account; or



(iii) The recipient last claimed the credit on a return filed with the department.

(5) No refunds may be granted for unused credits under this section.

**Sec. 13.** RCW 84.52.065 and 2019 c 411 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this section, subject to the limitations in RCW 84.55.010, in each year the state must levy for collection in the following year for the support of common schools of the state a tax of three dollars and sixty cents per thousand dollars of assessed value upon the assessed valuation of all taxable property within the state adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue.

(2)(a) In addition to the tax authorized under subsection (1) of this section, the state must levy an additional property tax for the support of common schools of the state.

(i) For taxes levied for collection in calendar years 2018 through 2021, the rate of tax is the rate necessary to bring the aggregate rate for state property tax levies levied under this subsection and subsection (1) of this section to a combined rate of two dollars and forty cents per thousand dollars of assessed value in calendar year 2019 and two dollars and seventy cents per thousand dollars of assessed value in calendar years 2018, 2020, and 2021. The state property tax levy rates provided in this subsection (2)(a)(i) are based upon the assessed valuation of all taxable property within the state adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue.

(ii) For taxes levied for collection in calendar year 2022 and thereafter, the tax authorized under this subsection (2) is subject to the limitations of chapter 84.55 RCW.

(b)(i) Except as otherwise provided in this subsection, all taxes collected under this subsection (2) must be deposited into the state general fund.

(ii) For fiscal year 2019, taxes collected under this subsection (2) must be deposited into the education legacy trust account for the support of common schools.

(3) For taxes levied for collection in calendar years 2019 through 2021, the state property taxes levied under subsections (1) and (2) of this section are not subject to the limitations in chapter 84.55 RCW.

(4)(a) For taxes levied for collection in calendar year 2022 and thereafter, the aggregate rate limit for state property taxes levied under subsections (1) and (2) of this section is three dollars and sixty cents per thousand dollars of assessed value upon the assessed valuation of all taxable property within the state adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue.

(b) If the aggregate rate of state property taxes levied under subsections (1) and (2) of this section for collection in any calendar year after 2021 exceeds \$3.60 per \$1,000 of assessed value, each rate must be reduced on a pro rata basis until the aggregate rate no longer exceeds \$3.60 per \$1,000 of assessed value.

(5) For property taxes levied for collection in calendar years 2019 through 2021, the rate of tax levied under subsection (1) of this section is the actual rate that was levied for collection in calendar year 2018 under subsection (1) of this section.

(6) As used in this section, "the support of common schools" includes the payment of the principal and interest on bonds issued for capital construction projects for the common schools.

NEW SECTION. Sec. 14. Section 4 of this act applies retroactively to January 1, 2020.

Passed by the Senate February 15, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 57

[Engrossed Substitute Senate Bill 5815]

### IDENTICARD PROGRAM—HOMELESS INDIVIDUALS

AN ACT Relating to implementing an identicard program to provide individuals a Washington state-issued identicard; adding a new section to chapter 46.20 RCW; 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 46.20 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department, working in conjunction with the department of commerce, shall create and implement an identicard program to provide homeless individuals within Washington state a state-issued identicard pursuant to RCW 46.20.117.

(2) A homeless individual is eligible for a taxpayer-funded original or renewal identicard pursuant to this section on a one-time basis, provided the individual:

(a) Meets the department of licensing criteria under RCW 46.20.117;

(b) Meets the definition of a homeless person pursuant to RCW 43.185C.010, which can be on a sheltered or unsheltered basis;

(c) Is expected to reside in a location within Washington state; and

(d) Does not have a current and valid state-issued identicard or driver's license.

NEW SECTION. Sec. 2. This act takes effect January 1, 2023.

Passed by the Senate February 12, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 58

[Substitute Senate Bill 5821]

### CARDIAC AND STROKE EMERGENCY RESPONSE SYSTEM—EVALUATION

AN ACT Relating to evaluating the state's cardiac and stroke emergency response system; 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 understand how current cardiac and stroke systems of care are functioning to impact health. Heart disease and stroke continue to be the leading cause of mortality in Washington state, responsible for approximately 15,000 deaths annually which is more than a quarter of all deaths in the state. A rigorous and systematic statewide assessment of care and outcomes will identify gaps in system performance and opportunities to target improvements that can save additional lives and decrease disability for all Washingtonians.

(2) The legislature finds that the department of health in collaboration with prehospital and hospital stakeholders has developed important data platforms that have the potential to measure prehospital and hospital care across health care systems. In order for these platforms to deliver on their public health potential, they require statewide coordination and oversight, robust linkage across stakeholder registries, and rigorous analysis to effectively identify and address gaps in care for cardiac and stroke emergencies. In response, the legislature intends to direct an evaluation that will inform the optimal statewide strategy to improve cardiac and stroke emergency care. The evaluation will inform the legislature on the gaps in the current cardiac and stroke system and what is required to strengthen this system.

**NEW SECTION. Sec. 2.** The department of health must, subject to amounts appropriated for this specific purpose, contract with a qualified independent party with demonstrated experience to evaluate the state's current system response for cardiac and stroke emergencies and provide recommendations to the legislature for ways in which the current response might be improved. The evaluation must be undertaken with consultation from the representatives identified in section 3 of this act and contain at a minimum, the following:

(1) An assessment of the existing system of care for cardiac and stroke care delivery, taking into consideration a review of the emergency medical system, its current gaps in resources such as equipment, staff availability, and training for emergency medical service providers, and hospital and system capacity including treatment resource availability with particular attention to critical access and rural hospitals;

(2) An analysis of the current state of quality data collection, its deficiencies, the reasons for the deficiencies, and the feasibility, associated costs, and requirements to improve data collection. This analysis must specifically include the value and costs of registries to monitor and improve cardiac and stroke care and outcomes, including identifying beneficial data linkages and interoperability. It must also include cost, staffing implications, technical assistance necessary for data collection, data submission and analysis, and cost of interoperability efforts for the state, emergency medical service providers, and hospitals;

(3) An analysis of potential benefits of establishing a statewide cardiac and stroke steering committee to monitor the provision of cardiac and stroke care and prioritize improvement initiatives; and

(4) Recommendations to support a cardiac and stroke care system for Washington state.

**NEW SECTION. Sec. 3.** In leading the study, the department of health must seek input and guidance from representatives of the following:

- (a) A statewide medical association;
- (b) A statewide organization of emergency physicians;
- (c) A statewide hospital association;
- (d) A representative of critical access hospitals;
- (e) A statewide for-profit ambulance association;
- (f) A statewide public emergency medical response organization;
- (g) County and city governments actively engaged in providing emergency response;
- (h) The American heart association; and
- (i) The emergency cardiac and stroke technical advisory committee.

**NEW SECTION. Sec. 4.** The department of health must provide a report on the findings and recommendations from the evaluation under section 2 of this act to the legislature by October 1, 2023.

**NEW SECTION. Sec. 5.** This act expires November 1, 2023.

Passed by the Senate February 10, 2022.

Passed by the House March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 59

[Engrossed Substitute Senate Bill 5853]

### DEPARTMENT OF TRANSPORTATION—CERTAIN PROPERTY—LEASING FOR COMMUNITY PURPOSES

AN ACT Relating to establishing a limited project regarding leasing certain department of transportation property in order to remedy past impacts to historically marginalized populations; amending RCW 47.12.120 and 47.12.125; and adding a new section to chapter 47.12 RCW.

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

**Sec. 1.** RCW 47.12.120 and 2003 c 198 s 2 are each amended to read as follows:

The department may rent or lease any lands, improvements, or air space above or below any lands that are held for highway purposes but are not presently needed. The rental or lease:

(1) Must be upon such terms and conditions as the department may determine;

(2) Is subject to the provisions and requirements of zoning ordinances of political subdivisions of government;

(3) Includes lands used or to be used for both limited access and conventional highways that otherwise meet the requirements of this section; ~~((and))~~

(4) In the case of bus shelters provided by a local transit authority that include commercial advertising, may charge the transit authority only for commercial space; and

(5) In the case of the project for community purposes established in section 2 of this act, must be consistent with the provisions of that section.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.12 RCW to read as follows:

(1) In order to remedy past impacts to historically marginalized populations within impacted local communities resulting from the construction of Interstate 90 and the US 395 North Spokane Corridor project, the department may establish a limited project for community purposes under the provisions of this section. It is the intent of the legislature that the department establish the project to allow the affected property to be used for community purposes made unavailable due to the placement of the highway, and therefore the department is strongly encouraged to establish the project. However, the very limited project under this section shall not be construed as precedent for future lease agreements concerning department property in other areas of the state, and nothing under this section precludes the department from leasing property in other areas of the state for economic rent. Additionally, the legislature finds that the limited project under this section is in the overall public interest based on social, environmental, or economic benefits, as those terms are construed under 23 C.F.R. Sec. 710.403(e).

(2)(a) Pursuant to RCW 47.12.120, the department may lease the property described in (b) of this subsection to a community-based nonprofit corporation or the department of commerce, to be used for the following community purposes made unavailable due to the placement of the highway projects described in subsection (1) of this section:

- (i) Housing and ancillary improvements;
- (ii) Parks;
- (iii) Community revitalization projects;
- (iv) Enhanced public spaces, such as trails and public plazas; and
- (v) Projects that provide enhanced economic development in the impacted community.

(b) The property eligible for lease under this section includes property that was purchased as part of the Interstate 90 corridor project and the US 395 North Spokane Corridor.

(c) A lease for the purposes described in (a)(i) and (ii) of this subsection may be for less than economic rent. However, the lease agreement must then require the lessee to maintain the premises as part of the consideration to the department.

(d) The parties identified in (a) of this subsection must provide updates, to the extent practicable, to the city of Spokane and the city of Spokane Valley when any significant actions are taken related to the agreements and activities authorized under this section.

(3) Any sublease resulting from this section is not intended to generate exorbitant profits.

(4) As used in this section, "economic rent" is defined as fair market rent, as established by an appraisal or other accepted valuation method.

**Sec. 3.** RCW 47.12.125 and 1999 c 94 s 15 are each amended to read as follows:

All moneys paid to the state of Washington under any of the provisions of RCW 47.12.120 shall be deposited in the department's advance right-of-way revolving fund, except moneys that are subject to federal aid reimbursement and moneys received from rental of capital facilities properties, which shall be

deposited in the motor vehicle fund. However, moneys paid under RCW 47.12.120(5) shall be deposited into the motor vehicle fund to be used solely within the corridors described in section 2(2)(b) of this act.

Passed by the Senate February 11, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 60

[Substitute Senate Bill 5860]

### ODESSA GROUNDWATER SUBAREA—UNUSED GROUNDWATER RIGHTS

AN ACT Relating to water policy in regions with regulated reductions in aquifer levels; adding a new section to chapter 90.44 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** In 2006, the legislature approved chapter 168, Laws of 2006 (Engrossed Substitute Senate Bill No. 6151) in order to encourage the efficient use of water in the Odessa subarea. Chapter 168, Laws of 2006 (Engrossed Substitute Senate Bill No. 6151) expired in July of 2021. The legislature finds that this program was effective and is necessary.

**NEW SECTION. Sec. 2.** A new section is added to chapter 90.44 RCW to read as follows:

(1) In order to encourage more efficient use of water, where the source of water is an aquifer within the Odessa groundwater subarea as defined in chapter 173-128A WAC:

(a) Any period of nonuse of a right to withdraw groundwater from the aquifer is deemed to be involuntary due to a drought or low flow period under RCW 90.14.140(2)(b); and

(b) Such unused water is deemed a standby or reserve water supply that may again be used after the period of nonuse, as long as: (i) Reductions in water use are a result of conservation practices, irrigation or water use efficiencies, long or short-term changes in the types or rotations of crops grown, economic hardship, pumping or system infrastructure costs, unavailability or unsuitability of water, or willing and documented participation in cooperative efforts to reduce aquifer depletion and optimize available water resources; (ii) withdrawal or diversion facilities are maintained in good operating condition; and (iii) the department has not issued a superseding water right permit or certificate to designate a portion of the groundwater right replaced by federal Columbia basin project water as a standby or reserve right under RCW 90.44.510.

(2)(a) A water right holder choosing to not exercise a water right in accordance with the provisions of this section must provide notice to the department in writing within 180 days of such a choice. The notice must include the name of the water right holder and the number of the permit, certificate, or claim.

(b) When a water right holder chooses to discontinue nonuse under the provisions of this section, notice of such action must be provided to the department in writing. Notice is not required under this subsection (2)(b) for

seasonal fluctuations in use if the right is not fully exercised as reflected in the notice provided under (a) of this subsection.

(c) A water right holder who submitted notice under RCW 90.44.520(2)(a) as it existed on June 30, 2021, is deemed to have provided notice under (a) of this subsection.

(3) The provisions of this section relating to the nonuse of all or a portion of a water right are in addition to any other provisions relating to such nonuse under existing law.

(4) If water from the federal Columbia basin project has been delivered to a place of use authorized under a right to withdraw groundwater from the aquifer, the provisions of RCW 90.44.510 apply and supersede the provisions of this section.

(5) Portions of rights protected under this section may not be transferred outside Odessa subarea boundaries as defined in WAC 173-128A-040. Transfers within Odessa subarea boundaries remain subject to the provisions of RCW 90.03.380, 90.03.390, 90.44.100, and WAC 173-130A-200.

Passed by the Senate February 14, 2022.

Passed by the House March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

**CHAPTER 61**

[Engrossed Substitute Senate Bill 5873]

**UNEMPLOYMENT INSURANCE—PREMIUMS**

AN ACT Relating to the social cost factor in unemployment insurance premiums; amending RCW 50.29.025 and 50.29.070; and declaring an emergency.

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

**Sec. 1.** RCW 50.29.025 and 2021 c 2 s 17 are each amended to read as follows:

(1) The contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

	Benefit Ratio	Rate Class	Rate (percent)
At least	Less than		
	0.000001	1	0.00

Benefit Ratio		Rate	Rate
At least	Less than	Class	(percent)
0.000001	0.001250	2	0.11
0.001250	0.002500	3	0.22
0.002500	0.003750	4	0.33
0.003750	0.005000	5	0.43
0.005000	0.006250	6	0.54
0.006250	0.007500	7	0.65
0.007500	0.008750	8	0.76
0.008750	0.010000	9	0.88
0.010000	0.011250	10	1.01
0.011250	0.012500	11	1.14
0.012500	0.013750	12	1.28
0.013750	0.015000	13	1.41
0.015000	0.016250	14	1.54
0.016250	0.017500	15	1.67
0.017500	0.018750	16	1.80
0.018750	0.020000	17	1.94
0.020000	0.021250	18	2.07
0.021250	0.022500	19	2.20
0.022500	0.023750	20	2.38
0.023750	0.025000	21	2.50
0.025000	0.026250	22	2.63
0.026250	0.027500	23	2.75
0.027500	0.028750	24	2.88
0.028750	0.030000	25	3.00
0.030000	0.031250	26	3.13
0.031250	0.032500	27	3.25
0.032500	0.033750	28	3.38
0.033750	0.035000	29	3.50
0.035000	0.036250	30	3.63
0.036250	0.037500	31	3.75
0.037500	0.040000	32	4.00
0.040000	0.042500	33	4.25
0.042500	0.045000	34	4.50
0.045000	0.047500	35	4.75
0.047500	0.050000	36	5.00



Benefit Ratio		Rate	Rate
At least	Less than	Class	(percent)
0.050000	0.052500	37	5.15
0.052500	0.055000	38	5.25
0.055000	0.057500	39	5.30
0.057500		40	5.40

(b) The graduated social cost factor rate shall be determined as follows:

(i)(A) Except as provided in (b)(i)(B) and (C) of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B)(I) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (1)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year. For rate year 2011 and thereafter, the calculation may not result in a flat social cost factor that is more than one and twenty-two one-hundredths percent except for rate year 2021 the calculation may not result in a flat social cost factor that is more than five-tenths percent, for rate year 2022 the calculation may not result in a flat social cost factor that is more than ~~((seventy-five one-hundredths))~~ five-tenths percent, for rate year 2023 the calculation may not result in a flat social cost factor that is more than ~~((eight-tenths))~~ seven-tenths percent, for rate year 2024 the calculation may not result in a flat social cost factor that is more than eighty-five one-hundredths percent, and for rate year 2025 the calculation may not result in a flat social cost factor that is more than nine-tenths percent.

(II) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide ten months of unemployment benefits or less, the flat social cost factor for the rate year immediately following the cut-off date may not increase by more than fifty percent over the previous rate year or may not exceed one and twenty-two one-hundredths percent, whichever is greater.

(III) For the purposes of this subsection (1)(b), the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive completed calendar years immediately preceding the cut-off date or a period of consecutive

calendar years immediately preceding the cut-off date that includes three recessions, if longer.

(C) The minimum flat social cost factor calculated under this subsection (1)(b) shall be six-tenths of one percent, except that if the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide:

(I) At least ten months but less than eleven months of unemployment benefits, the minimum shall be five-tenths of one percent; or

(II) At least eleven months but less than twelve months of unemployment benefits, the minimum shall be forty-five hundredths of one percent; or

(III) At least twelve months but less than thirteen months of unemployment benefits, the minimum shall be four-tenths of one percent; or

(IV) At least thirteen months but less than fifteen months of unemployment benefits, the minimum shall be thirty-five hundredths of one percent; or

(V) At least fifteen months but less than seventeen months of unemployment benefits, the minimum shall be twenty-five hundredths of one percent; or

(VI) At least seventeen months but less than eighteen months of unemployment benefits, the minimum shall be fifteen hundredths of one percent; or

(VII) At least eighteen months of unemployment benefits, the minimum shall be fifteen hundredths of one percent through rate year 2011 and shall be zero thereafter.

(ii) The graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed five and four-tenths percent:

(A) Rate class 1 - 40 percent;

(B) Rate class 2 - 44 percent;

(C) Rate class 3 - 48 percent;

(D) Rate class 4 - 52 percent;

(E) Rate class 5 - 56 percent;

(F) Rate class 6 - 60 percent;

(G) Rate class 7 - 64 percent;

(H) Rate class 8 - 68 percent;

(I) Rate class 9 - 72 percent;

(J) Rate class 10 - 76 percent;

(K) Rate class 11 - 80 percent;

(L) Rate class 12 - 84 percent;

(M) Rate class 13 - 88 percent;

(N) Rate class 14 - 92 percent;

(O) Rate class 15 - 96 percent;

(P) Rate class 16 - 100 percent;

(Q) Rate class 17 - 104 percent;

(R) Rate class 18 - 108 percent;

- (S) Rate class 19 - 112 percent;
- (T) Rate class 20 - 116 percent; and
- (U) Rate classes 21 through 40 - 120 percent.

(iii) For rate year 2023, for any employer with 10 or fewer employees as reported on the employer's fourth quarter report to the department for 2021 and whose rate class is greater than rate class 7, the employer's rate class, only for purposes of the rate classes in (b)(ii)(A) through (U) of this subsection (1), is rate class 7.

(iv) For the purposes of this section:

(A) "Total social cost" means the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters.

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) For employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due:

(i)(A) For an employer who does not enter into an approved agency-deferred payment contract as described in (c)(i)(B) or (C) of this subsection, the array calculation factor rate shall be the rate it would have been if the employer had not been delinquent in payment plus an additional one percent or, if the employer is delinquent in payment for a second or more consecutive year, an additional two percent;

(B) For an employer who enters an approved agency-deferred payment contract by September 30th of the previous rate year, the array calculation factor rate shall be the rate it would have been if the employer had not been delinquent in payment;

(C) For an employer who enters an approved agency-deferred payment contract after September 30th of the previous rate year, but within thirty days of the date the department sent its first tax rate notice, the array calculation factor rate shall be the rate it would have been had the employer not been delinquent in payment plus an additional one-half of one percent or, if the employer is delinquent in payment for a second or more consecutive year, an additional one and one-half percent;

(D) For an employer who enters an approved agency-deferred payment contract as described in (c)(i)(B) or (C) of this subsection, but who fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the array calculation factor rate shall immediately revert to the applicable array calculation factor rate under (c)(i)(A) of this subsection; and

(ii) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii)(~~(A)~~) of this subsection.

(d) For all other employers not qualified to be in the array:

(i) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner,

multiplied by the history factor, but not less than one percent or more than the array calculation factor rate in rate class 40;

(ii) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, multiplied by the history factor, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection; and

(iii) The history factor shall be based on the total amounts of benefits charged and contributions paid in the three fiscal years ending prior to the computation date by employers not qualified to be in the array, other than employers in (c) of this subsection, who were first subject to contributions in the calendar year ending three years prior to the computation date. The commissioner shall calculate the history ratio by dividing the total amount of benefits charged by the total amount of contributions paid in this three-year period by these employers. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five one-hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The commissioner shall determine the history factor according to the history ratio as follows:

	History Ratio		History Factor (percent)
	At least	Less than	
(A)		.95	90
(B)	.95	1.05	100
(C)	1.05		115

(2) Assignment of employers by the commissioner to industrial classification, for purposes of this section, shall be in accordance with established classification practices found in the North American industry classification system code.

**Sec. 2.** RCW 50.29.070 and 2003 2nd sp.s. c 4 s 19 are each amended to read as follows:

(1) Within a reasonable time after the computation date each employer shall be notified of the employer's rate of contribution as determined for the succeeding rate year and factors used in the calculation. Beginning with rate year 2005, the notice must include the amount of the contribution rate that is attributable to each component of the rate under RCW 50.29.025(~~((2))~~) (1).

(2) Any employer dissatisfied with the benefit charges made to the employer's account for the twelve-month period immediately preceding the computation date or with his or her determined rate may file a request for review and redetermination with the commissioner within thirty days of the mailing of the notice to the employer, showing the reason for such request. Should such request for review and redetermination be denied, the employer may, within thirty days of the mailing of such notice of denial, file with the appeal tribunal a petition for hearing which shall be heard in the same manner as a petition for denial of refund. The appellate procedure prescribed by this title for further appeal shall apply to all denials of review and redetermination under this section.

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 9, 2022.

Passed by the House March 1, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 62

[Substitute Senate Bill 5890]

### RADIOLOGICAL HAZARDOUS WASTE FACILITY WORKERS—WORKERS' COMPENSATION PRESUMPTION

AN ACT Relating to clarifying eligibility for the presumption for workers' compensation for all personnel working at a radiological hazardous waste facility; amending RCW 51.32.187; and declaring an emergency.

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

**Sec. 1.** RCW 51.32.187 and 2019 c 108 s 1 are each amended to read as follows:

(1) The definitions in this section apply throughout this section.

(a) (~~"Hanford nuclear site" and "Hanford site" and "site" means the approximately five hundred sixty square miles in southeastern Washington state, excluding leased land, state-owned lands, and lands owned by the Bonneville Power Administration, which is owned by the United States and which is commonly known as the Hanford reservation.~~

~~(b) "United States department of energy Hanford site workers" and "Hanford site worker" means any person, including a contractor or subcontractor, who was engaged in the performance of work, either directly or indirectly, for the United States, regarding projects and contracts at the Hanford nuclear site and who worked on the site at the two hundred east, two hundred west, three hundred area, environmental restoration disposal facility site, central plateau, or the river corridor locations for at least one eight-hour shift while covered under this title.~~

~~(2)(a) For United States department of energy Hanford site workers, as defined in this section, who are covered under this title, there exists a prima facie presumption that the diseases and conditions listed in subsection (3) of this section are occupational diseases under RCW 51.08.140) "Exposed worker(s)" means a worker working at a radiological hazardous waste facility for at least an eight hour shift covered under this title, including conducting an inspection of the facility.~~

~~(b) "Radiological hazardous waste facility" means any structure and its lands where high-level radioactive waste as defined by 33 U.S.C. Sec. 1402 or mixed waste as defined by WAC 173-303-040 is stored or disposed of, except for military installations as defined in 31 C.F.R. Part 802.227 and listed in Appendix A to 31 C.F.R. Part 802.~~

~~(2)(a) For exposed workers who are covered under this title, there exists a prima facie presumption that the diseases and conditions listed in subsection (3) of this section are occupational diseases under RCW 51.08.140.~~

(b) This presumption of occupational disease may be rebutted by clear and convincing evidence. Such evidence may include, but is not limited to, use of tobacco products, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities.

(3) The prima facie presumption applies to the following:

(a) Respiratory disease, except communicable diseases;

(b) Any heart problems, experienced within seventy-two hours of exposure to fumes, toxic substances, or chemicals at the site;

(c) Cancer, subject to subsection (4) of this section;

(d) Beryllium sensitization, and acute and chronic beryllium disease; and

(e) Neurological disease, except communicable diseases.

(4)(a) The presumption established for cancer only applies to any active or former (~~United States department of energy Hanford site~~) exposed worker who has cancer that develops or manifests itself and who either was given a qualifying medical examination upon becoming (~~a United States department of energy Hanford site~~) such a worker that showed no evidence of cancer or was not given a qualifying medical examination because a qualifying medical examination was not required.

(b) The presumption applies to the following cancers:

(i) Leukemia;

(ii) Primary or secondary lung cancer, including bronchi and trachea, sarcoma of the lung, other than in situ lung cancer that is discovered during or after a postmortem examination, but not including mesothelioma or pleura cancer;

(iii) Primary or secondary bone cancer, including the bone form of solitary plasmacytoma, myelodysplastic syndrome, myelofibrosis with myeloid metaplasia, essential thrombocytosis or essential thrombocythemia, primary polycythemia vera (also called polycythemia rubra vera, P. vera, primary polycythemia, proliferative polycythemia, spent-phase polycythemia, or primary erythremia);

(iv) Primary or secondary renal (kidney) cancer;

(v) Lymphomas, other than Hodgkin's disease;

(vi) Waldenstrom's macroglobulinemia and mycosis fungoides; and

(vii) Primary cancer of the: (A) Thyroid; (B) male or female breast; (C) esophagus; (D) stomach; (E) pharynx, including all three areas, oropharynx, nasopharynx, and hypopharynx and the larynx. The oropharynx includes base of tongue, soft palate and tonsils (the hypopharynx includes the pyriform sinus); (F) small intestine; (G) pancreas; (H) bile ducts, including ampulla of Vater; (I) gall bladder; (J) salivary gland; (K) urinary bladder; (L) brain (malignancies only and not including intracranial endocrine glands and other parts of the central nervous system or borderline astrocytomas); (M) colon, including rectum and appendix; (N) ovary, including fallopian tubes if both organs are involved; and (O) liver, except if cirrhosis or hepatitis B is indicated.

(5)(a) The presumption established in this section extends to an (~~applicable United States department of energy Hanford site~~) exposed worker following termination of service for the lifetime of that individual.

(b) A worker or the survivor of a worker who has died as a result of one of the conditions or diseases listed in subsection (3) of this section, and whose claim was denied by order of the department, the board of industrial insurance

appeals, or a court, can file a new claim for the same exposure and contended condition or disease.

(c) This section applies to decisions made after June 7, 2018, without regard to the date of last injurious exposure or claim filing.

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

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

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 12, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 63

[Senate Bill 5931]

### COURT OF APPEALS—JUDGES PRO TEMPORE

AN ACT Relating to appointment of judges pro tempore in the court of appeals; and amending RCW 2.06.150.

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

**Sec. 1.** RCW 2.06.150 and 1997 c 88 s 3 are each amended to read as follows:

(1) Whenever necessary for the prompt and orderly administration of justice, the chief ~~((justice of the supreme court of the state of Washington))~~ judge of any division of the court of appeals may appoint any regularly elected and qualified judge of ~~((the superior court or any retired judge of a court of record in))~~ a court of general jurisdiction, any retired judge of the court of appeals, or any active or retired justice of the supreme court of this state to serve as judge pro tempore of the court of appeals to sit within that division. PROVIDED, HOWEVER, That no judge pro tempore appointed to serve on the court of appeals under this subsection may serve more than ninety days in any one year.

(2) If the term of a judge of the court of appeals expires with cases or other judicial business pending, the chief ~~((justice of the supreme court of the state of Washington, upon the recommendation of the chief presiding))~~ judge of the division of the court of appeals from which the term expired, may appoint the judge to serve as judge pro tempore of the court of appeals~~((, whenever necessary for the prompt and orderly administration of justice. No judge may be~~

~~appointed under this subsection more than one time and no appointment may exceed sixty days)) to sit within that division to complete his or her cases or other judicial business.~~

(3) Before entering upon his or her duties as judge pro tempore of the court of appeals, the appointee shall take and subscribe an oath of office as provided for in Article IV, section 28 of the state Constitution.

Passed by the Senate February 9, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

## CHAPTER 64

[Senate Bill 5940]

### LIQUOR LICENSEES—PACKAGING SERVICES ENDORSEMENT

AN ACT Relating to creating a license endorsement allowing domestic licensed alcohol manufacturers to provide contract packaging services to other alcohol manufacturing licensees within this state; and adding a new section to chapter 66.24 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 66.24 RCW to read as follows:

(1) There is an endorsement available to any liquor manufacturer licensed in this state under RCW 66.24.140, 66.24.145, 66.24.170, 66.24.240, or 66.24.244 whereby the licensee may contract with licensed liquor distillers, craft distillers, domestic brewers, microbreweries, wineries, and domestic wineries licensed in this state to provide packaging services that include, but are not limited to:

(a) Canning, bottling, and bagging of alcoholic beverages;

(b) Mixing products before packaging;

(c) Repacking of finished products into mixed consumer packs or multipacks; and

(d) Receiving and returning products to the originating liquor licensed businesses as part of a contract in which the contracting liquor licensed party for which the services are being provided retains title and ownership of the products at all times.

(2) Holders of the endorsement authorized under this section:

(a) May contract with other nonliquor licensed businesses if the contract does not include alcohol products;

(b) May not contract directly or indirectly with any retail liquor licensee for the sale of the alcohol products being packaged under this section, unless they are medicinal, culinary, or toilet preparations not usable as beverages, as described in RCW 66.12.070;

(c) May not engage in direct liquor sales to retail liquor licensees on behalf of the contracted party or the contracted party's products, except for the sale of alcohol products described in RCW 66.12.070; and

(d) May not mix or infuse THC, CBD, or any other cannabinoid into any products containing alcohol.



(3) The board shall approve a written request for an endorsement under this section for any authorized licensee in good standing at the time of the request without further requirement for additional licensing or administrative review.

(4) The annual fee for this endorsement is \$100.

Passed by the Senate February 9, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 11, 2022.

Filed in Office of Secretary of State March 11, 2022.

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## CHAPTER 65

[Engrossed House Bill 1851]

### ABORTION CARE—ACCESS

AN ACT Relating to preserving a pregnant individual's ability to access abortion care; amending RCW 9.02.100, 9.02.110, 9.02.130, 9.02.140, 9.02.160, 9.02.170, and 9.02.120; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature affirms that:

(1) It is the longstanding public policy of this state to promote access to affordable, high quality sexual and reproductive health care, including abortion care, without unnecessary burdens or restrictions on patients or providers. In 1970 Washington was one of the first states to decriminalize abortion before *Roe v. Wade*; and in 1991 the people of Washington passed Initiative Measure 120, the reproductive privacy act, further protecting access to abortion services;

(2) It has been 30 years since the passage of the reproductive privacy act. It is time that we modernize and update the language to reflect current medical practice;

(3) In 2004 and 2019, respectively, Washington attorneys general Christine Gregoire and Robert W. Ferguson issued opinions clarifying that Washington state law allows certain qualified advanced practice clinicians to provide early in-clinic and medication abortion care and recommended that Washington statutes be updated to provide further clarity;

(4) Although the abortion rights movement has historically centered on women in our advocacy, that must no longer be the case and it is critical that we recognize that transgender, nonbinary, and gender expansive people also get pregnant and require abortion care. Washington's law should reflect the most inclusive understanding of who needs abortions and be updated with gender neutral language. All people deserve access to qualified providers in their community who can provide whatever method of abortion care works for them and no individual who chooses to manage their own abortion should fear arrest or prosecution because of their pregnancy decision or outcome; and

(5) All people deserve to make their own decisions about their pregnancies, including deciding to end a pregnancy. It is the public policy of the state of Washington to continue to protect and advance equal rights to access abortion care that meets each individual's needs, regardless of gender or gender identity, race, ethnicity, income level, or place of residence.

**Sec. 2.** RCW 9.02.100 and 1992 c 1 s 1 are each amended to read as follows:

The sovereign people hereby declare that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions.

Accordingly, it is the public policy of the state of Washington that:

(1) Every individual has the fundamental right to choose or refuse birth control;

(2) Every (~~woman~~) pregnant individual has the fundamental right to choose or refuse to have an abortion, except as specifically limited by RCW 9.02.100 through 9.02.170 and 9.02.900 through 9.02.902;

(3) Except as specifically permitted by RCW 9.02.100 through 9.02.170 and 9.02.900 through 9.02.902, the state shall not deny or interfere with a (~~woman's~~) pregnant individual's fundamental right to choose or refuse to have an abortion; and

(4) The state shall not discriminate against the exercise of these rights in the regulation or provision of benefits, facilities, services, or information.

**Sec. 3.** RCW 9.02.110 and 1992 c 1 s 2 are each amended to read as follows:

The state may not deny or interfere with a (~~woman's~~) pregnant individual's right to choose to have an abortion prior to viability of the fetus, or to protect (~~her~~) the pregnant individual's life or health.

A physician, physician assistant, advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice may terminate and a health care provider may assist a physician, physician assistant, advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice in terminating a pregnancy as permitted by this section.

**Sec. 4.** RCW 9.02.130 and 1992 c 1 s 4 are each amended to read as follows:

The good faith judgment of a physician, physician assistant, advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice as to viability of the fetus or as to the risk to life or health of a (~~woman~~) pregnant individual and the good faith judgment of a health care provider as to the duration of pregnancy shall be a defense in any proceeding in which a violation of this chapter is an issue.

**Sec. 5.** RCW 9.02.140 and 1992 c 1 s 5 are each amended to read as follows:

Any regulation promulgated by the state relating to abortion shall be valid only if:

(1) The regulation is medically necessary to protect the life or health of the (~~woman~~) pregnant individual who is terminating (~~her~~) the pregnancy,

(2) The regulation is consistent with established medical practice, and

(3) Of the available alternatives, the regulation imposes the least restrictions on the (~~woman's~~) pregnant individual's right to have an abortion as defined by RCW 9.02.100 through 9.02.170 and 9.02.900 through 9.02.902.

**Sec. 6.** RCW 9.02.160 and 1992 c 1 s 7 are each amended to read as follows:

If the state provides, directly or by contract, maternity care benefits, services, or information (~~to women~~) through any program administered or funded in whole or in part by the state, the state shall also provide (~~women~~)

pregnant individuals otherwise eligible for any such program with substantially equivalent benefits, services, or information to permit them to voluntarily terminate their pregnancies.

**Sec. 7.** RCW 9.02.170 and 1992 c 1 s 8 are each amended to read as follows:

For purposes of this chapter:

(1) "Viability" means the point in the pregnancy when, in the judgment of the physician, physician assistant, advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice on the particular facts of the case before such physician, physician assistant, advanced registered nurse practitioner, or other health care provider acting within the provider's scope of practice, there is a reasonable likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.

(2) "Abortion" means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

(3) "Pregnancy" means the reproductive process beginning with the implantation of an embryo.

(4) "Physician" means a physician licensed to practice under chapter 18.57 or 18.71 RCW in the state of Washington.

(5) "Physician assistant" means a physician assistant licensed to practice under chapter 18.71A RCW in the state of Washington.

(6) "Advanced registered nurse practitioner" means an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(7) "Health care provider" means a (~~physician or a~~) person (~~acting under the general direction of a physician~~) regulated under Title 18 RCW to practice health or health-related services or otherwise practicing health care services in this state consistent with state law.

~~((6))~~ (8) "State" means the state of Washington and counties, cities, towns, municipal corporations, and quasi-municipal corporations in the state of Washington.

~~((7))~~ (9) "Private medical facility" means any medical facility that is not owned or operated by the state.

**Sec. 8.** RCW 9.02.120 and 1992 c 1 s 3 are each amended to read as follows:

Unless authorized by RCW 9.02.110, any person who performs an abortion on another person shall be guilty of a class C felony punishable under chapter 9A.20 RCW. The state shall not penalize, prosecute, or otherwise take adverse action against an individual based on their actual, potential, perceived, or alleged pregnancy outcomes. Nor shall the state penalize, prosecute, or otherwise take adverse action against someone for aiding or assisting a pregnant individual in exercising their right to reproductive freedom with their voluntary consent.

Passed by the House March 7, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 66

[House Bill 1376]

## LAND TITLES—TORRENS ACT REPEAL

AN ACT Relating to registration of land titles; creating new sections; repealing RCW 65.12.005, 65.12.010, 65.12.015, 65.12.020, 65.12.025, 65.12.030, 65.12.035, 65.12.040, 65.12.050, 65.12.055, 65.12.060, 65.12.065, 65.12.070, 65.12.080, 65.12.085, 65.12.090, 65.12.100, 65.12.110, 65.12.120, 65.12.125, 65.12.130, 65.12.135, 65.12.140, 65.12.145, 65.12.150, 65.12.155, 65.12.160, 65.12.165, 65.12.170, 65.12.175, 65.12.180, 65.12.190, 65.12.195, 65.12.200, 65.12.210, 65.12.220, 65.12.225, 65.12.230, 65.12.235, 65.12.240, 65.12.245, 65.12.250, 65.12.255, 65.12.260, 65.12.265, 65.12.270, 65.12.275, 65.12.280, 65.12.290, 65.12.300, 65.12.310, 65.12.320, 65.12.330, 65.12.340, 65.12.350, 65.12.360, 65.12.370, 65.12.375, 65.12.380, 65.12.390, 65.12.400, 65.12.410, 65.12.420, 65.12.430, 65.12.435, 65.12.440, 65.12.445, 65.12.450, 65.12.460, 65.12.470, 65.12.480, 65.12.490, 65.12.500, 65.12.510, 65.12.520, 65.12.530, 65.12.540, 65.12.550, 65.12.560, 65.12.570, 65.12.580, 65.12.590, 65.12.600, 65.12.610, 65.12.620, 65.12.630, 65.12.635, 65.12.640, 65.12.650, 65.12.660, 65.12.670, 65.12.680, 65.12.690, 65.12.700, 65.12.710, 65.12.720, 65.12.730, 65.12.740, 65.12.750, 65.12.760, 65.12.770, 65.12.780, 65.12.790, 65.12.800, and 65.12.900; and providing an effective date.

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

NEW SECTION. **Sec. 1.** The following acts or parts of acts are each repealed:

- (1) RCW 65.12.005 (Registration authorized—Who may apply) and 2012 c 117 s 211 & 1907 c 250 s 1;
- (2) RCW 65.12.010 (Land subject to a lesser estate) and 1907 c 250 s 2;
- (3) RCW 65.12.015 (Tax title land—Conditions to registration) and 2012 c 117 s 212 & 1907 c 250 s 3;
- (4) RCW 65.12.020 (Application) and 2012 c 117 s 213 & 1907 c 250 s 4;
- (5) RCW 65.12.025 (Various lands in one application) and 1907 c 250 s 5;
- (6) RCW 65.12.030 (Amendment of application) and 1907 c 250 s 6;
- (7) RCW 65.12.035 (Form of application) and 2016 c 202 s 42, 2009 c 521 s 145, & 1907 c 250 s 7;
- (8) RCW 65.12.040 (Venue—Power of the court) and 1907 c 250 s 8;
- (9) RCW 65.12.050 (Registrars of titles) and 1907 c 250 s 9;
- (10) RCW 65.12.055 (Bond of registrar) and 2012 c 117 s 214 & 1907 c 250 s 10;
- (11) RCW 65.12.060 (Deputy registrar—Duties—Vacancy) and 2012 c 117 s 215 & 1907 c 250 s 11;
- (12) RCW 65.12.065 (Registrar not to practice law—Liability for deputy) and 2012 c 117 s 216 & 1907 c 250 s 12;
- (13) RCW 65.12.070 (Nonresident to appoint agent) and 2012 c 117 s 217 & 1907 c 250 s 14;
- (14) RCW 65.12.080 (Filing application—Docket and record entries) and 1907 c 250 s 15;
- (15) RCW 65.12.085 (Filing abstract of title) and 1907 c 250 s 15a;
- (16) RCW 65.12.090 (Examiner of titles—Appointment—Oath—Bond) and 2012 c 117 s 218 & 1907 c 250 s 13;
- (17) RCW 65.12.100 (Copy of application as lis pendens) and 1907 c 250 s 16;
- (18) RCW 65.12.110 (Examination of title) and 2012 c 117 s 219 & 1907 c 250 s 17;
- (19) RCW 65.12.120 (Summons to issue) and 1907 c 250 s 18;

- (20) RCW 65.12.125 (Summons—Form) and 2016 c 202 s 43 & 1907 c 250 s 206;
- (21) RCW 65.12.130 (Parties to action) and 1907 c 250 s 19;
- (22) RCW 65.12.135 (Service of summons) and 1985 c 469 s 60 & 1907 c 250 s 20;
- (23) RCW 65.12.140 (Copy mailed to nonresidents—Proof—Expense) and 2012 c 117 s 220 & 1907 c 250 s 20a;
- (24) RCW 65.12.145 (Guardians ad litem) and 1907 c 250 s 21;
- (25) RCW 65.12.150 (Who may appear—Answer) and 2012 c 117 s 221 & 1907 c 250 s 22;
- (26) RCW 65.12.155 (Judgment by default—Proof) and 1907 c 250 s 23;
- (27) RCW 65.12.160 (Cause set for trial—Default—Referral) and 2012 c 117 s 222 & 1907 c 250 s 24;
- (28) RCW 65.12.165 (Court may require further proof) and 1907 c 250 s 25;
- (29) RCW 65.12.170 (Application dismissed or withdrawn) and 2012 c 117 s 223 & 1907 c 250 s 26;
- (30) RCW 65.12.175 (Decree of registration—Effect—Appellate review) and 2012 c 117 s 224, 1988 c 202 s 56, 1971 c 81 s 132, & 1907 c 250 s 27;
- (31) RCW 65.12.180 (Rights of persons not served) and 2012 c 117 s 225 & 1907 c 250 s 28;
- (32) RCW 65.12.190 (Limitation of actions) and 1907 c 250 s 29;
- (33) RCW 65.12.195 (Title free from incumbrances—Exceptions) and 1907 c 250 s 30;
- (34) RCW 65.12.200 (Decree—Contents—Filing) and 2012 c 117 s 226 & 1907 c 250 s 31;
- (35) RCW 65.12.210 (Interest acquired after filing application) and 1907 c 250 s 32;
- (36) RCW 65.12.220 (Registration—Effect) and 1917 c 62 s 1 & 1907 c 250 s 33;
- (37) RCW 65.12.225 (Withdrawal authorized—Effect) and 1917 c 62 s 2;
- (38) RCW 65.12.230 (Application to withdraw) and 2016 c 202 s 44 & 1917 c 62 s 3;
- (39) RCW 65.12.235 (Certificate of withdrawal) and 2016 c 202 s 45, 2012 c 117 s 227, 1973 c 121 s 1, & 1917 c 62 s 4;
- (40) RCW 65.12.240 (Effect of recording) and 1917 c 62 s 5;
- (41) RCW 65.12.245 (Title prior to withdrawal unaffected) and 1917 c 62 s 6;
- (42) RCW 65.12.250 (Entry of registration—Records) and 2012 c 117 s 228 & 1907 c 250 s 34;
- (43) RCW 65.12.255 (Certificate of title) and 2016 c 202 s 46, 2012 c 117 s 229, & 1907 c 250 s 35;
- (44) RCW 65.12.260 (Owner's certificate—Receipt) and 2012 c 117 s 230 & 1907 c 250 s 36;
- (45) RCW 65.12.265 (Tenants in common) and 2012 c 117 s 231 & 1907 c 250 s 37;
- (46) RCW 65.12.270 (Subsequent certificates) and 2016 c 202 s 47 & 1907 c 250 s 38;
- (47) RCW 65.12.275 (Exchange of certificates—Platting land) and 1907 c 250 s 39;

- (48) RCW 65.12.280 (Effective date of certificate) and 1907 c 250 s 40;
- (49) RCW 65.12.290 (Certificate of title as evidence) and 2012 c 117 s 232 & 1907 c 250 s 41;
- (50) RCW 65.12.300 (Indexes and files—Forms) and 2012 c 117 s 233 & 1907 c 250 s 42;
- (51) RCW 65.12.310 (Tract and alphabetical indexes) and 2012 c 117 s 234 & 1907 c 250 s 43;
- (52) RCW 65.12.320 (Dealings with registered land) and 2012 c 117 s 235 & 1907 c 250 s 44;
- (53) RCW 65.12.330 (Registration has effect of recording) and 1907 c 250 s 45;
- (54) RCW 65.12.340 (Filing—Numbering—Indexing—Public records) and 1907 c 250 s 46;
- (55) RCW 65.12.350 (Duplicate of instruments certified—Fees) and 1907 c 250 s 47;
- (56) RCW 65.12.360 (New certificate—Register of less than fee—When form of memorial in doubt) and 2012 c 117 s 236 & 1907 c 250 s 48;
- (57) RCW 65.12.370 (Owner's certificate to be produced when new certificate issued) and 2012 c 117 s 237 & 1907 c 250 s 49;
- (58) RCW 65.12.375 (Owner's duplicate certificate) and 1907 c 250 s 50;
- (59) RCW 65.12.380 (Conveyance of registered land) and 2012 c 117 s 238 & 1907 c 250 s 51;
- (60) RCW 65.12.390 (Certificate of tax payment) and 1907 c 250 s 52;
- (61) RCW 65.12.400 (Registered land charged as other land) and 1907 c 250 s 53;
- (62) RCW 65.12.410 (Conveyances by attorney-in-fact) and 1907 c 250 s 54;
- (63) RCW 65.12.420 (Encumbrances by owner) and 1907 c 250 s 55;
- (64) RCW 65.12.430 (Registration of mortgages) and 2012 c 117 s 239 & 1907 c 250 s 56;
- (65) RCW 65.12.435 (Dealings with mortgages) and 1907 c 250 s 57;
- (66) RCW 65.12.440 (Foreclosures on registered land) and 1907 c 250 s 58;
- (67) RCW 65.12.445 (Registration of final decree—New certificate) and 2012 c 117 s 240 & 1907 c 250 s 59;
- (68) RCW 65.12.450 (Title on foreclosure—Registration) and 2012 c 117 s 241 & 1907 c 250 s 60;
- (69) RCW 65.12.460 (Petition for new certificate) and 1907 c 250 s 61;
- (70) RCW 65.12.470 (Registration of leases) and 2012 c 117 s 242 & 1907 c 250 s 62;
- (71) RCW 65.12.480 (Instruments with conditions) and 2012 c 117 s 243 & 1907 c 250 s 63;
- (72) RCW 65.12.490 (Transfers between trustees) and 2012 c 117 s 244 & 1907 c 250 s 64;
- (73) RCW 65.12.500 (Trustee may register land) and 2012 c 117 s 245 & 1907 c 250 s 65;
- (74) RCW 65.12.510 (Creation of lien on registered land) and 1907 c 250 s 66;
- (75) RCW 65.12.520 (Registration of liens) and 1907 c 250 s 67;

- (76) RCW 65.12.530 (Entry as to plaintiff's attorney) and 2012 c 117 s 246 & 1907 c 250 s 68;
- (77) RCW 65.12.540 (Decree) and 1907 c 250 s 69;
- (78) RCW 65.12.550 (Title acquired on execution) and 2012 c 117 s 247 & 1907 c 250 s 70;
- (79) RCW 65.12.560 (Termination of proceedings) and 2012 c 117 s 248 & 1907 c 250 s 71;
- (80) RCW 65.12.570 (Land registered only after redemption period) and 2012 c 117 s 249 & 1907 c 250 s 72;
- (81) RCW 65.12.580 (Registration on inheritance) and 1907 c 250 s 73;
- (82) RCW 65.12.590 (Probate court may direct sale of registered land) and 2012 c 117 s 250 & 1907 c 250 s 74;
- (83) RCW 65.12.600 (Trustees and receivers) and 2012 c 117 s 251 & 1907 c 250 s 75;
- (84) RCW 65.12.610 (Eminent domain—Reversion) and 2012 c 117 s 252 & 1907 c 250 s 76;
- (85) RCW 65.12.620 (Registration when owner's certificate withheld) and 2012 c 117 s 253 & 1907 c 250 s 77;
- (86) RCW 65.12.630 (Reference to examiner of title) and 1907 c 250 s 78;
- (87) RCW 65.12.635 (Examiner of titles) and 2012 c 117 s 254 & 1907 c 250 s 79;
- (88) RCW 65.12.640 (Registered instruments to contain names and addresses—Service of notices) and 2012 c 117 s 255 & 1907 c 250 s 80;
- (89) RCW 65.12.650 (Adverse claims—Procedure) and 2012 c 117 s 256 & 1907 c 250 s 81;
- (90) RCW 65.12.660 (Assurance fund) and 1973 1st ex.s. c 195 s 75 & 1907 c 250 s 82;
- (91) RCW 65.12.670 (Investment of fund) and 1907 c 250 s 83;
- (92) RCW 65.12.680 (Recoveries from fund) and 1907 c 250 s 84;
- (93) RCW 65.12.690 (Parties defendant—Judgment—Payment—Duties of county attorney) and 2012 c 117 s 257 & 1907 c 250 s 85;
- (94) RCW 65.12.700 (When fund not liable—Maximum liability) and 1907 c 250 s 86;
- (95) RCW 65.12.710 (Limitation of actions) and 2012 c 117 s 258, 1971 ex.s. c 292 s 49, & 1907 c 250 s 87;
- (96) RCW 65.12.720 (Proceeding to change records) and 2012 c 117 s 259 & 1907 c 250 s 88;
- (97) RCW 65.12.730 (Certificate subject of theft—Penalty) and 2003 c 53 s 291 & 1907 c 250 s 89;
- (98) RCW 65.12.740 (Perjury) and 2003 c 53 s 292 & 1907 c 250 s 90;
- (99) RCW 65.12.750 (Fraud—False entries—Penalty) and 2003 c 53 s 293 & 1907 c 250 s 91;
- (100) RCW 65.12.760 (Forgery—Penalty) and 2003 c 53 s 294 & 1907 c 250 s 92;
- (101) RCW 65.12.770 (Civil actions unaffected) and 2012 c 117 s 260 & 1907 c 250 s 93;
- (102) RCW 65.12.780 (Fees of clerk) and 1995 c 292 s 19 & 1907 c 250 s 94;

(103) RCW 65.12.790 (Fees of registrar) and 2012 c 117 s 261, 1973 1st ex.s. c 195 s 76, 1973 c 121 s 2, & 1907 c 250 s 95;

(104) RCW 65.12.800 (Disposition of fees) and 2012 c 117 s 262 & 1907 c 250 s 96; and

(105) RCW 65.12.900 (Construction—Chapter applicable to state registered domestic partnerships—2009 c 521) and 2009 c 521 s 144.

**NEW SECTION. Sec. 2.** The repeal of the statutes listed in section 1 of this act does not affect any right accrued or established, or any liability or penalty incurred, under those statutes before their repeal.

**NEW SECTION. Sec. 3.** Unless real property subject to the provisions of chapter 65.12 RCW on the effective date of this section is previously withdrawn from the registry system by its owner in the manner provided by section 4 of this act, the real property shall cease to be subject to the provisions of chapter 65.12 RCW upon the effective date of this section.

**NEW SECTION. Sec. 4.** (1) By July 1, 2023, the owner of real property registered under the provisions of chapter 65.12 RCW on the effective date of this section shall surrender their duplicate certificate of title for the real property or their certified copy of the original certificate of title for the real property, as the case may be, to the registrar of titles for the county in which the real property is situated. If such duplicate certificate or certified copy has been lost, mislaid, or destroyed the owner of the real property shall make affidavit before the registrar of titles or any other officer authorized to administer oaths wherein the owner shall state, to the best of his or her knowledge, the circumstances of the loss, the description of the real property, the name and address of each registered owner, and each such owner's interest in the real property.

(2) Except as otherwise provided by subsection (3) of this section, the surrender of the duplicate certificate, certified copy, or the making of an affidavit under subsection (1) of this section shall be considered as a withdrawal of the real property therein described from the registry system in accordance with chapter 65.12 RCW.

(3) The registrar of titles for the county in which the real property is situated shall:

(a) Accept, without charging therefor, the surrender of such duplicate certificate of title, certified copy of the original certificate of title, or affidavit; and

(b) Issue, without charging therefor, a certificate of withdrawal for the real property as required by chapter 65.12 RCW; and

(c) Cause to be duly recorded in the office of the county auditor for the county, without charge, the certificate of withdrawal issued under (b) of this subsection and all instruments filed in the office of the registrar of titles that relate to outstanding interests in such real property and to outstanding liens, mortgages, and other charges upon such real property, referred to in or noted upon the original certificate of title to such real property on the date of the issuance of the certificate of withdrawal for such real property pursuant to (b) of this subsection.

**NEW SECTION. Sec. 5.** On July 1, 2023, the registrar of titles for the county shall cause the volumes of the register of titles for the county and the accompanying alphabetical indices and tract indices and other files and records



in the office of the registrar of titles to be closed and placed in the permanent deed records of the county. At this time all properties remaining in registration are automatically withdrawn according to section 4(3) (b) and (c) of this act.

**NEW SECTION. Sec. 6.** (1) By December 1, 2022, the registrar of titles for each county shall send to each owner of real property situated in the county that is subject to the provisions of this act a written notice containing the following:

- (a) A statement that the registry system has been discontinued by this act;
- (b) A statement that such owner's real property will cease to be subject to registration under this act on July 1, 2023;
- (c) A statement that such owner may withdraw, without charge, his or her real property from registration and the provisions of this act in the manner provided in section 4 of this act prior to such date;
- (d) A statement that the validity and priority of lien interest or ownership is not affected by this process; and
- (e) A statement that the registrar of titles for the county, upon completion of the required withdrawal procedures, shall cause the instruments described in section 4(3) of this act to be properly restored to the recording system without charge.

(2) The registrar of titles shall send the notice required by subsection (1) of this section to each such owner at the most recent address indicated on the original certificate of title for the owner's real property contained in the volumes of the register of titles for the county.

**NEW SECTION. Sec. 7.** Sections 3 and 5 of this act take effect July 1, 2023.

Passed by the House March 7, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 67

[Substitute House Bill 1389]

### PEER-TO-PEER VEHICLE SHARING PROGRAMS

AN ACT Relating to transportation; adding a new chapter to Title 46 RCW; repealing RCW 48.175.005, 48.175.010, 48.175.020, 48.175.030, and 48.175.900; and providing an effective date.

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

**NEW SECTION. Sec. 1.** This act may be known and cited as the peer-to-peer vehicle sharing program act.

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

(1) "Car sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement.

(2) "Car sharing period" means the period of time that commences with the car sharing delivery period or, if there is no car sharing delivery period, that

commences with the car sharing start time and in either case ends at the car sharing termination time.

(3) "Car sharing program agreement" means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program. "Car sharing program agreement" does not mean rental car agreement, or similar agreement, as defined in RCW 48.115.005.

(4) "Car sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program.

(5) "Car sharing termination time" means the earliest of the following events:

(a) The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

(b) When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program; or

(c) When the shared vehicle owner or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle.

(6) "Peer-to-peer car sharing" means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program. "Peer-to-peer car sharing" does not mean retail car rental under chapter 82.08 RCW or rental car as defined in RCW 46.04.465 and 48.115.005.

(7) "Peer-to-peer car sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. "Peer-to-peer car sharing program" does not mean rental car company as defined in RCW 48.115.005 or rental car business as defined in RCW 46.04.466.

(8) "Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer car sharing program. "Shared vehicle" does not mean rental car as defined in RCW 46.04.465 and 48.115.005 or retail car rental as defined in RCW 82.08.011.

(9) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement. "Shared vehicle driver" does not mean consumer as used in RCW 82.08.011. "Shared vehicle driver" does not mean renter within the meaning of RCW 48.115.005. A shared vehicle driver is not a person to whom a rental car is made available within the meaning of RCW 46.04.465.

(10) "Shared vehicle owner" means the registered owner of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program. "Shared vehicle owner" does not mean rental car business as defined in RCW 46.04.466. "Shared vehicle owner" does not mean rental car company as defined in RCW 48.115.005.

**NEW SECTION. Sec. 3.** (1)(a) A peer-to-peer car sharing program shall assume the liability, except as provided in (b) of this subsection, of a shared vehicle owner for bodily injury or property damage to third parties or uninsured

and underinsured motorist or personal injury protection losses during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement, which amount may not be less than those set forth in chapter 46.29 RCW.

(b) Notwithstanding the definition of car sharing termination time as provided in section 2 of this act, the assumption of liability under (a) of this subsection does not apply to any shared vehicle owner when:

(i) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car sharing program before the car sharing period in which the loss occurred; or

(ii) Acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

(c) Notwithstanding the definition of car sharing termination time as provided in section 2 of this act, the assumption of liability under (a) of this subsection would apply to bodily injury, property damage, uninsured and underinsured motorist, or personal injury protection losses by damaged third parties required by chapter 46.29 RCW.

(d) A peer-to-peer car sharing program shall make certain that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that provides insurance coverage in amounts no less than two times the minimum amounts provided in chapter 46.29 RCW, and:

(i) Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; or

(ii) Does not exclude use of a shared vehicle by a shared vehicle driver.

(e) The insurance coverage described under (d) of this subsection may be satisfied by a motor vehicle liability insurance policy maintained by:

(i) A shared vehicle owner;

(ii) A shared vehicle driver;

(iii) A peer-to-peer car sharing program; or

(iv) Any combination of (e)(i) through (iii) of this subsection.

(f) The insurance policy or policies described in (e) of this subsection that are satisfying the insurance requirement of (d) of this subsection shall be primary during each car sharing period.

(g) The peer-to-peer car sharing program shall assume primary liability for a claim when it is in whole or in part providing the insurance required under (d) and (e) of this subsection and:

(i) A dispute exists as to who was in control of the shared motor vehicle at the time of the loss; and

(ii) The peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required by section 4 of this act. The shared motor vehicle's insurer shall indemnify the peer-to-peer car sharing program to the extent of its obligation under, if any, the applicable insurance policy, if it is determined that the shared motor vehicle's owner was in control of the shared motor vehicle at the time of the loss.

(h) If the insurance policy maintained by a shared vehicle owner or shared vehicle driver in accordance with (e) of this subsection has lapsed or does not provide the required insurance coverage, the insurance policy maintained by a peer-to-peer car sharing program shall provide the insurance coverage required

by (d) of this subsection beginning with the first dollar of a claim and shall have the duty to defend such claim except under circumstances as provided in (b) of this subsection.

(i) Coverage under a motor vehicle liability insurance policy maintained by the peer-to-peer car sharing program is not dependent on another motor vehicle insurer first denying a claim nor shall another motor vehicle liability insurance policy be required to first deny a claim.

(j) Nothing in this chapter:

(i) Limits the liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program; or

(ii) Limits the ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

(2) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall notify the shared vehicle owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

(3)(a) An authorized insurer that writes motor vehicle liability insurance in the state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy including, but not limited to:

(i) Liability coverage for bodily injury and property damage;

(ii) Personal injury protection coverage;

(iii) Uninsured and underinsured motorist coverage;

(iv) Medical payments coverage;

(v) Comprehensive physical damage coverage; and

(vi) Collision physical damage coverage.

(b) Nothing in this chapter invalidates or limits an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing, or hire, or for any business use.

(4) A peer-to-peer car sharing program shall collect and verify records pertaining to the use of a vehicle including, but not limited to, times used, fees paid by the shared vehicle driver, and revenues received by the shared vehicle owner and provide that information upon request to the shared vehicle owner, the shared vehicle owner's insurer, or the shared vehicle driver's insurer to facilitate a claim coverage investigation. The peer-to-peer car sharing program shall retain the records for a time period not less than the applicable personal injury statute of limitations.

(5) A peer-to-peer car sharing program and a shared vehicle owner shall be exempt from vicarious liability consistent with 49 U.S.C. Sec. 30106 and under any state or local law that imposes liability solely based on vehicle ownership.

(6) A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy shall have the right to seek contribution against the motor vehicle insurer of the peer-to-peer car sharing program if the claim is:

(a) Made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the car sharing period; and

(b) Excluded under the terms of its policy.

(7)(a) Notwithstanding any other law, statute, rule, or regulation to the contrary, a peer-to-peer car sharing program shall have an insurable interest in a shared vehicle during the car sharing period.

(b) Nothing in this section obligates a peer-to-peer car sharing program to maintain a liability insurance policy for the liability assumed under subsection (1) of this section.

(c) A peer-to-peer car sharing program may own and maintain as the named insured one or more policies of motor vehicle liability insurance that provides coverage for:

(i) Liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer car sharing program agreement;

(ii) Any liability of the shared vehicle owner; or

(iii) Damage or loss to the shared motor vehicle, or any liability of the shared vehicle driver.

**NEW SECTION. Sec. 4.** (1) Each car sharing program agreement made in the state shall disclose to the shared vehicle owner and the shared vehicle driver:

(a) Any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement;

(b) That a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program;

(c) That the peer-to-peer car sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

(d) The daily rate, fees, and if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;

(e) That the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle;

(f) An emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries; and

(g) If there are conditions under which a shared vehicle driver must maintain a personal motor vehicle insurance policy with certain applicable coverage limits on a primary basis in order to book a shared motor vehicle.

(2)(a) A peer-to-peer car sharing program may not enter into a peer-to-peer car sharing program agreement with a driver unless the driver who will operate the shared vehicle:

(i) Holds a driver's license issued in this state authorizing the driver to operate vehicles of the class of the shared vehicle;

(ii) Is a nonresident who:

(A) Has a driver's license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive vehicles of the class of the shared vehicle; and

(B) Is at least the same age as that required of a resident to drive; or

(iii) Otherwise is specifically authorized to drive vehicles of the class of the shared vehicle.

(b) A peer-to-peer car sharing program shall keep a record of:

(i) The name and address of the shared vehicle driver;

(ii) The number of the driver's license of the shared vehicle driver and each other person, if any, who will operate the shared vehicle; and

(iii) The place of issuance of the driver's license.

(3) A peer-to-peer car sharing program shall have sole responsibility for any equipment, such as a global positioning system or other special equipment that is put in or on the vehicle to monitor or facilitate the car sharing transaction, and shall agree to indemnify and hold harmless the vehicle owner for any damage to or theft of such equipment during the sharing period not caused by the vehicle owner. The peer-to-peer car sharing program has the right to seek indemnity from the shared vehicle driver for any loss or damage to such equipment that occurs during the sharing period.

(4)(a) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

(i) Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made; and

(ii) Notify the shared vehicle owner of the requirements under (b) of this subsection.

(b) If the shared vehicle owner has received an actual notice of a safety recall on the vehicle, a shared vehicle owner may not make a vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.

(i) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car sharing program, the shared vehicle owner shall remove the shared vehicle as available on the peer-to-peer car sharing program, as soon as practicably possible after receiving the notice of the safety recall and until the safety recall repair has been made.

(ii) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used in the possession of a shared vehicle driver, as soon as practicably possible after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer car sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

**NEW SECTION. Sec. 5.** The following acts or parts of acts are each repealed:

(1) RCW 48.175.005 (Definitions) and 2012 c 108 s 1;

- (2) RCW 48.175.010 (Requirements of program) and 2012 c 108 s 2;  
 (3) RCW 48.175.020 (Program's liabilities—Owner's insurance policy) and 2012 c 108 s 3;  
 (4) RCW 48.175.030 (Private passenger motor vehicle not a commercial or for-hire motor vehicle—Criteria) and 2012 c 108 s 4; and  
 (5) RCW 48.175.900 (Application—2012 c 108) and 2012 c 108 s 6.

NEW SECTION. Sec. 6. Sections 1 through 4 and 7 of this act constitute a new chapter in Title 46 RCW.

NEW SECTION. Sec. 7. This act takes effect January 1, 2023.

Passed by the House March 8, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 68

[Substitute House Bill 1642]

### NATIONAL GUARD POSTSECONDARY EDUCATION GRANT PROGRAM— MODIFICATION

AN ACT Relating to the Washington national guard postsecondary education grant program; and amending RCW 28B.103.010 and 28B.103.020.

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

**Sec. 1.** RCW 28B.103.010 and 2020 c 297 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 28B.103.020 and 28B.103.030.

(1) "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 meets any additional selection criteria adopted by the office and all of the following participation requirements:

(a) ~~((Has not achieved a baccalaureate or higher degree from any postsecondary institution))~~ Enrolled in courses or a program that lead to a postsecondary degree or certificate;

(b) Is an active drilling member 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;

(d) Is a resident student as defined in RCW 28B.15.012; and

(e) Agrees to fulfill his or her service obligation.

(2) "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) "Grant" means the Washington national guard postsecondary education grant as established in RCW 28B.103.020.

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

(5) "Participant" means an eligible student who has received a Washington national guard postsecondary education grant under this chapter.

(6) "Service obligation" means serving 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 receives a Washington national guard postsecondary education grant.

**Sec. 2.** RCW 28B.103.020 and 2020 c 297 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. (~~Awards shall be valued as follows~~) Grants may not:

(i) (~~The difference between the student's tuition and required fees, less the value of any federal and state funded grant, scholarship, or waiver assistance the students [student] receives; and~~

~~(ii) Five hundred dollars for books and materials~~) Exceed the maximum Washington college grant as defined in RCW 28B.92.030, plus \$500 for books and supplies;

(ii) Exceed the student's cost of attendance, when combined with all other public and private grants, scholarships, and waiver assistance the student 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 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)~~) education 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;

(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 of their additional service obligation or required repayment of the Washington national guard postsecondary education grant; and

(6) The collection of repayments from participants who do not meet the service obligations.

Passed by the House February 2, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 69

[Engrossed Substitute House Bill 1716]

### BALLOT CASTING LOCATIONS—VARIOUS PROVISIONS

AN ACT Relating to locations at which ballots may be cast; and amending RCW 29A.40.160, 29A.08.140, and 29A.84.510.

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

**Sec. 1.** RCW 29A.40.160 and 2019 c 6 s 6 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 (~~register voters in person~~) open a voting center at each of the following locations in the county:

(a) At the county auditor's office(~~;~~)  
~~(b) At~~) or at the division of elections(~~(, if located)~~) that is in a separate ~~((city))~~ location from the county auditor's office; and

~~((e))~~ (b) For each presidential general election, ~~((at a voting center))~~ 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) ~~((or (b)))~~ 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) 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) 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 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) 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) Any voter may take printed or written material into the voting device to assist in casting his or her vote. The voter shall not use this material to electioneer and shall remove it when he or she leaves the voting center.

(12) If any voter states that he or she is unable to cast his or her votes due to a disability, the voter may designate a person of his or her choice, or two election officers, to enter the voting booth and record the votes as he or she directs.

(13) 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 may be issued a replacement ballot.

(14) 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) 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) 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. 2.** RCW 29A.08.140 and 2020 c 208 s 22 are each amended to read as follows:

(1) In order to vote in any primary, special election, or general election, a person who is not registered to vote in Washington must:

(a) Submit a registration application that is received by an election official no later than eight days before the day of the primary, special election, or general election. For purposes of this subsection (1)(a), "received" means: (i) Being physically received by an election official by the close of business of the required deadline; or (ii) for applications received online or electronically, by midnight, of the required deadline; or

(b) Register in person at a county auditor's office, the division of elections if in a separate ~~((city))~~ location from the county auditor's office, a voting center, a student engagement hub, or other location designated by the county auditor no later than 8:00 p.m. on the day of the primary, special election if the county is conducting an election, or general election.

(2)(a) In order to change a residence address for voting in any primary, special election, or general election, a person who is already registered to vote in Washington may update his or her registration by:

(i) Submitting an address change using a registration application or making notification via any non-in-person method that is received by election officials no later than eight days before the day of the primary, special election, or general election; or

(ii) Appearing in person, at a county auditor's office, the division of elections if in a separate ~~((city))~~ location from the county auditor's office, a voting center, or other location designated by the county auditor, no later than 8:00 p.m. on the day of the primary, special election if the county is conducting an election, or general election to be in effect for that primary, special election if the county is conducting an election, or general election.

(b) A registered voter who fails to update his or her residential address by this deadline may vote according to his or her previous registration address.

(3) To register or update a voting address in person at a county auditor's office, a voting center, or other location designated by the county auditor, a person must appear in person at a county auditor's office, a voting center, or other location designated by the county auditor at a time when the facility is open and complete the voter registration application by providing the information required by RCW 29A.08.010.

**Sec. 3.** RCW 29A.84.510 and 2013 c 11 s 82 are each amended to read as follows:

(1) During the voting period that begins eighteen days before and ends the day of a special election, general election, or primary, no person may:

(a) Within a voting center or student engagement hub or in any public street or room in any public manner within 100 feet measured radially from the entrance to a voting center or student engagement hub or 25 feet measured radially from a ballot drop box as described in RCW 29A.40.170:

(i) Suggest or persuade or attempt to suggest or persuade any voter to vote for or against any candidate or ballot measure;

(ii) Circulate cards or handbills of any kind;

(iii) Solicit signatures of any kind of petition; or

(iv) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the voting center;

(b) Engage in any activities restricted under (a) of this subsection through electronic amplification located more than 100 feet from an entrance to a voting center or student engagement hub or 25 feet from an entrance to a ballot drop box if the person is capable of being understood within 100 feet of the voting center or student engagement hub or 25 feet of the ballot drop box;

(c) Obstruct the doors or entries to a building in which a voting center or ballot drop location is located or prevent free access to and from any voting center or ballot drop location.

(2) The auditor shall post a sign at the point or points specified at each voting center as required by RCW 29A.40.160 during the voting period providing notice of the prohibition in subsection (1)(a) of this section.

(3) Any sheriff, deputy sheriff, or municipal law enforcement officer shall stop the prohibited activity, and may arrest any person engaging in the prohibited activity.

~~((3))~~ (4) Any violation of this section is a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021, and the person convicted may be ordered to pay the costs of prosecution.

(5) Nothing in this section may be construed to limit or otherwise restrict the access of an authorized political party observer to a voting center, student engagement hub, or ballot drop box for the purpose of observing the election process.

Passed by the House January 28, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 70

[House Bill 1738]

### HOUSING FINANCE COMMISSION—OUTSTANDING INDEBTEDNESS LIMIT

AN ACT Relating to changing the total amount of outstanding indebtedness of the Washington state housing finance commission; and amending RCW 43.180.160.

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

**Sec. 1.** RCW 43.180.160 and 2018 c 78 s 1 are each amended to read as follows:

(1) The total amount of outstanding indebtedness of the commission may not exceed (~~eight billion dollars~~) \$14,000,000,000 at any time. The calculation of outstanding indebtedness shall include the initial principal amount of an issue and shall not include interest that is either currently payable or that accrues as a part of the face amount of an issue payable at maturity or earlier redemption. Outstanding indebtedness shall not include notes or bonds as to which the obligation of the commission has been satisfied and discharged by refunding or for which payment has been provided by reserves or otherwise.

(2)(a) The Washington works housing program is created to increase opportunities for nonprofit organizations and public agencies to purchase, acquire, build, and own real property to be used for affordable housing for low and moderate-income households. The Washington works housing program is intended to provide access to new funding mechanisms and build long-term community equity by increasing the stock of permanently affordable housing owned by nonprofit organizations and public agencies.

(b) The Washington works housing program is intended to provide these opportunities for public agencies and nonprofit organizations, including those materially participating as a managing member or general partner of a partnership, limited liability company, or equivalent organization, through the issuance of tax exempt or taxable revenue bonds issued by the commission in conjunction with a subsidy necessary to make bond issues to finance affordable housing properties financially feasible. The program is intended to provide financing for affordable housing that will meet the (~~following~~) income and rent restrictions in (c) and (d) of this subsection during the period of initial bond indebtedness and thereafter.

(c) During the period of initial bond indebtedness under the program, the owner of the property must meet one of the following requirements: A minimum of twenty percent of the units will be occupied by households earning less than fifty percent of area median income and an additional thirty-one percent of the units will be occupied by persons earning less than eighty percent of area median income; or forty percent of the units will be occupied by households earning less than sixty percent of area median income and an additional eleven percent of the units will be occupied by households earning less than eighty percent of area median income.

(d) After the initial bond indebtedness is retired, the rents charged for units in the project will be adjusted to be sufficient to pay reasonable operation and maintenance expenses, including necessary capital needs, and to make reasonable deposits into a reserve account with the intent of providing affordable housing to very low or low-income households for the remaining useful life of the property. The reasonableness of the rent levels must be periodically approved by the commission based on information provided by the owner of the property about income, expenses, and necessary reserve levels. The determination of the commission regarding the reasonableness of the rent levels will be final.

(e) The commission will enter into a recorded regulatory agreement with the borrower at the time of the issuance of bonds under the program for the purpose of ensuring that the property will meet the income and rent restrictions established in this section. The commission may charge such compliance fees as necessary to ensure enforcement of the income and rent restrictions during the useful life of the property.

(3) One billion dollars of the outstanding indebtedness of the commission is for the primary purpose of implementing the Washington works housing program.

(4) If no subsidies are available to make the program in subsection (2) of this section feasible, then the commission may pass a resolution stating these facts and authorize the use of a portion of the one billion dollars of indebtedness intended for the program to support its other bond programs until such time as the one billion dollars is exhausted or subsidies are available to make the program feasible.

Passed by the House February 12, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 71

[Engrossed House Bill 1744]

### COMPREHENSIVE CANCER CARE COLLABORATIVE ARRANGEMENTS

AN ACT Relating to collaborative arrangements between institutions of higher education and nonprofit private entities that provide comprehensive cancer care; amending RCW 42.56.010, 43.09.290, 41.40.010, 41.56.030, 41.80.005, 42.30.020, 39.26.010, 41.06.020, and 42.17A.005; reenacting and amending RCW 42.52.010; adding a new section to chapter 28B.10 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; 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 Washington benefits from its outstanding university research and health care delivery for cancer patients. The legislature finds that Washington state's citizens and its economy are benefited from the ability to attract and retain private, not-for-profit cancer research and health care delivery institutions. The legislature finds it is in the interest of the citizens of the state of Washington to promote collaboration between public universities and private not-for-profit entities in health care that will provide the highest level of cancer care for patients and advance the prevention, treatment, and cure of cancer through advanced research. The legislature intends to foster the development of cooperative and collaborative arrangements between institutions of higher education and private nonprofit comprehensive cancer centers, for the effective and efficient delivery of cancer-related clinical care and as a platform to further advance cancer-related education and research.

(2) Further, the legislature intends that private nonprofit comprehensive cancer centers are not hindered in entering into such collaborations that would benefit the state of Washington and its residents by the application of certain laws governing state agencies.

(3) The legislature intends that private nonprofit comprehensive cancer centers in such collaborative arrangements are not state entities, or quasi-government entities, as a result of any such collaborative arrangement so long as the parties to the collaborative arrangement operate in conformance with section 2 of this act. The legislature further intends that employees of such private nonprofit entities are not state employees as a result of the collaboration so long

as the parties to the collaborative arrangement operate in conformance with section 2 of this act.

(4) The legislature intends to maintain existing responsibilities that state institutions of higher education, as state agencies, owe to the citizens of the state, including but not limited to being subject to state audit and public records requirements, and preserving assets in the interest of the citizens of the state. Further, the legislature intends for private comprehensive cancer centers to retain their private status as they enter into the collaborative agreements with state institutions of higher education, described herein. The legislature intends that collaborations between state institutions of higher education and comprehensive cancer centers be governed by contractual arrangements that address, as necessary and appropriate, the intellectual property rights and obligations of the state.

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

(1) To facilitate a public-private collaborative arrangement between a comprehensive cancer center and an institution of higher education and maintain the independence of the comprehensive cancer center as a nonprofit private entity, a comprehensive cancer center that is operated in conformance with subsection (3) of this section is not:

(a) A state agency, state employer, quasi-government entity, or the functional equivalent of a state entity for any purpose under Washington law;

(b) Subject to any obligation or duty of a state agency, state employer, or quasi-government entity under any Washington law; and

(c) Subject to state laws or rules and local ordinances, resolutions, or rules specifically applicable to state agencies solely because of an entity's status as a state agency, but is subject to generally applicable state laws and rules and local ordinances, resolutions, and rules.

(2) Employees of a comprehensive cancer center that is operated in conformance with subsection (3) of this section are not employees of a state agency, nor have any right or entitlement to any benefits conferred upon employees of a state agency.

(3)(a) For purposes of this act, and to ensure that a comprehensive cancer center maintains its character as a nonpublic entity, a comprehensive cancer center must not:

(i) Perform an exclusively governmental function, but perform cancer research and medical treatment that are traditionally performed by both governmental and nongovernmental entities;

(ii) Receive a majority of its operations funding from the government of the state of Washington or its agencies or institutions, but perform research and medical services under contract to both governmental and nongovernmental entities;

(iii) Be subject to day-to-day management by any state agency or institution of higher education; and

(iv) Be created solely by a state agency or an institution of higher education.

(b) For purposes of this act, and to ensure that the employees of a comprehensive cancer center are at no times employees of a state agency or institution of higher education, state employer, quasi-government entity, or the functional equivalent of a state entity, no state agency or institution of higher

education, nor the employees, designees, or agents of a state agency or institution of higher education, may:

(i) Directly exercise employer management over comprehensive cancer center employees' day-to-day operation of the comprehensive cancer center;

(ii) Solely determine the compensation, benefits, and working conditions of comprehensive cancer center employees for their comprehensive cancer center employment; or

(iii) Engage in collective bargaining, the ratification of collective bargaining agreements as an employer, or other discussion with the exclusive bargaining representatives of the employees of a comprehensive cancer center related to comprehensive cancer center employees.

(4) For the purposes of this act, the following definitions apply:

(a) "Collaborative arrangement" means a written arrangement between a comprehensive cancer center and an institution of higher education, through which the cancer care programs of the comprehensive cancer center and institution of higher education will be aligned and managed.

(b) "Comprehensive cancer center" means a comprehensive cancer center as defined in RCW 82.04.4265 that enters into a collaborative arrangement with an institution of higher education and is operated in conformance with this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 36.01 RCW to read as follows:

No county may enact, enforce, or maintain an ordinance, regulation, or rule that regulates or otherwise treats a comprehensive cancer center participating in a collaborative arrangement as defined in section 2 of this act that is operated in conformance with section 2 of this act as a state agency. Such a comprehensive cancer center is still subject to ordinances, regulations, and rules that are generally applicable in nature.

**NEW SECTION. Sec. 4.** A new section is added to chapter 35.21 RCW to read as follows:

No city or town may enact, enforce, or maintain an ordinance, regulation, or rule that regulates or otherwise treats a comprehensive cancer center participating in a collaborative arrangement as defined in section 2 of this act that is operated in conformance with section 2 of this act as a state agency. Such a comprehensive cancer center is still subject to ordinances, regulations, and rules that are generally applicable in nature.

**NEW SECTION. Sec. 5.** A new section is added to chapter 35A.21 RCW to read as follows:

No code city may enact, enforce, or maintain an ordinance, regulation, or rule that regulates or otherwise treats a comprehensive cancer center participating in a collaborative arrangement as defined in section 2 of this act that is operated in conformance with section 2 of this act as a state agency. Such a comprehensive cancer center is still subject to ordinances, regulations, and rules that are generally applicable in nature.

**Sec. 6.** RCW 42.56.010 and 2017 c 303 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" 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 section 2 of this act that is operated in conformance with section 2 of this act.

(2) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, "person in interest" means and includes the parent or duly appointed legal representative.

(3) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives. This definition does not include records that are not otherwise required to be retained by the agency and are held by volunteers who:

(a) Do not serve in an administrative capacity;

(b) Have not been appointed by the agency to an agency board, commission, or internship; and

(c) Do not have a supervisory role or delegated agency authority.

(4) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

**Sec. 7.** RCW 43.09.290 and 1995 c 301 s 21 are each amended to read as follows:

For the purposes of RCW 43.09.290 through 43.09.340 and 43.09.410 through 43.09.418, post-audit means an audit of the books, records, funds, accounts, and financial transactions of a state agency for a complete fiscal period; pre-audit means all other audits and examinations; state agency means elective officers and offices, and every other office, officer, department, board, council, committee, commission, or authority of the state government now existing or hereafter created, supported, wholly or in part, by appropriations from the state treasury or funds under its control, or by the levy, assessment, collection, or receipt of fines, penalties, fees, licenses, sales of commodities, service charges, rentals, grants-in-aid, or other income provided by law, and all

state educational, penal, reformatory, charitable, eleemosynary, or other institutions, supported, wholly or in part, by appropriations from the state treasury or funds under its control, but not including a comprehensive cancer center participating in a collaborative arrangement as defined in section 2 of this act that is operated in conformance with section 2 of this act.

**Sec. 8.** RCW 41.40.010 and 2021 c 12 s 7 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 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 ~~((thirty days))~~ 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 section 2 of this act that is operated in conformance with section 2 of this act.

(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 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-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 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 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 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 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 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 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 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 days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five 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 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 hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy 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 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 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 days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five 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. 9.** RCW 41.56.030 and 2021 c 13 s 7 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 section 2 of this act that is operated in conformance with section 2 of this act.

(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.

**Sec. 10.** RCW 41.80.005 and 2021 c 180 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any agency as defined in RCW 41.06.020 and covered by chapter 41.06 RCW. "Agency" also includes the assistant attorneys general of the attorney general's office and the administrative law judges of the office of administrative hearings, regardless of whether those employees are exempt under chapter 41.06 RCW. "Agency" does not include a comprehensive cancer center participating in a collaborative arrangement as defined in section 2 of this act that is operated in conformance with section 2 of this act.

(2) "Collective bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020. The obligation to bargain does not compel either party to agree to a proposal or to make a concession, except as otherwise provided in this chapter.

(3) "Commission" means the public employment relations commission.

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters.

(5) "Director" means the director of the public employment relations commission.

(6) "Employee" means any employee, including employees whose work has ceased in connection with the pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW. "Employee" includes assistant attorneys general of the office of the attorney general and administrative law judges of the office of administrative hearings, regardless of their exemption under chapter 41.06 RCW. "Employee" does not include:

(a) Employees covered for collective bargaining by chapter 41.56 RCW;

(b) Confidential employees;

(c) Members of the Washington management service;

(d) Internal auditors in any agency; or

(e) Any employee of the commission, the office of financial management, or the office of risk management within the department of enterprise services.

(7) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

(8) "Employer" means the state of Washington.

(9) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

(10) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(11) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

(12) "Manager" means "manager" as defined in RCW 41.06.022.

(13) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment. However, no employee who is a member of the Washington management service may be included in a collective bargaining unit established under this section.

(14) "Unfair labor practice" means any unfair labor practice listed in RCW 41.80.110.

(15) "Uniformed personnel" means duly sworn police officers employed as members of a police force established pursuant to RCW 28B.10.550.

**Sec. 11.** RCW 42.30.020 and 1985 c 366 s 1 are each amended to read as follows:

As used in this chapter unless the context indicates otherwise:

(1) "Public agency" means:

(a) Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature. This does not include a comprehensive cancer center participating in a collaborative arrangement as defined in section 2 of this act that is operated in conformance with section 2 of this act;

(b) Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington;

(c) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies;

(d) Any policy group whose membership includes representatives of publicly owned utilities formed by or pursuant to the laws of this state when meeting together as or on behalf of participants who have contracted for the output of generating plants being planned or built by an operating agency.

(2) "Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

(3) "Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

(4) "Meeting" means meetings at which action is taken.

**Sec. 12.** RCW 39.26.010 and 2015 c 79 s 5 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 section 2 of this act that is operated in conformance with section 2 of this act.

(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 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, but one million dollars 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 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. 13.** RCW 41.06.020 and 2015 3rd sp.s. c 1 s 314 are each amended to read as follows:

Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section.

(1) "Affirmative action" means a procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system.

(2) "Agency" means an office, department, board, commission, or other separate unit or division, however designated, of the state government and all personnel thereof; it includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature. "Agency" does not include a comprehensive cancer center participating in a collaborative arrangement as defined in section 2 of this act that is operated in conformance with section 2 of this act.

(3) "Board" means the Washington personnel resources board established under the provisions of RCW 41.06.110, except that this definition does not apply to the words "board" or "boards" when used in RCW 41.06.070.

(4) "Career development" means the progressive development of employee capabilities to facilitate productivity, job satisfaction, and upward mobility through work assignments as well as education and training that are both state-sponsored and are achieved by individual employee efforts, all of which shall be consistent with the needs and obligations of the state and its agencies.

(5) "Classified service" means all positions in the state service subject to the provisions of this chapter.

(6) "Comparable worth" means the provision of similar salaries for positions that require or impose similar responsibilities, judgments, knowledge, skills, and working conditions.

(7) "Competitive service" means all positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

(8) "Department" means an agency of government that has as its governing officer a person, or combination of persons such as a commission, board, or council, by law empowered to operate the agency responsible either to (a) no other public officer or (b) the governor.

(9) "Director" means the director of financial management or the director's designee.

(10) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(11) "Noncompetitive service" means all positions in the classified service for which a competitive examination is not required.

(12) "Related boards" means the state board for community and technical colleges; and such other boards, councils, and commissions related to higher education as may be established.

(13) "Training" means activities designed to develop job-related knowledge and skills of employees.



**Sec. 14.** RCW 42.17A.005 and 2020 c 152 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) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "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 section 2 of this act that is operated in conformance with section 2 of this act.

(3) "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.

(4) "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.

(5) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

(6) "Bona fide political party" means:

(a) An organization that has been recognized as a minor political party by the secretary of state;

(b) 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

(c) 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.

(7) "Books of account" means:

(a) 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

(b) 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.

(8) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when the individual first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote the individual's candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote the individual's candidacy; or

(d) Gives consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(9) "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.

(10) "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 communications used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

(11) "Commission" means the agency established under RCW 42.17A.100.

(12) "Committee" unless the context indicates otherwise, includes a political committee such as a candidate, ballot proposition, recall, political, or continuing political committee.

(13) "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, "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.

(14) "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.

(15)(a) "Contribution" includes:

(i) 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;

(ii) 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;

(iii) 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;

(iv) 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.

(b) "Contribution" does not include:

(i) Accrued interest on money deposited in a political or incidental committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political or incidental committee that is returned to the contributor within ten business days of the date on which it is received by the candidate or political or incidental committee;

(iv) 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;

(v) 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;

(vi) 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 subsection, means services or labor for which the individual is not compensated by any person;

(vii) 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;

(viii) Legal or accounting services rendered to or on behalf of:

(A) 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

(B) 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

(ix) 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 (b)(vi) of this subsection or for payment by the candidate or political or incidental committee for whom the services are performed as long as:

(A) The person performs solely ministerial functions;

(B) 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; and

(C) 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 (a)(ii) of this subsection.

A person who performs ministerial functions under this subsection (15)(b)(ix) 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.

(c) 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.

(16) "Depository" means a bank, mutual savings bank, savings and loan association, or credit union doing business in this state.

(17) "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.

(18) "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 chapter.

(19) "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.

(20) "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.

(21)(a) "Electioneering communication" means any broadcast, cable, or satellite television, radio transmission, digital communication, United States postal service mailing, billboard, newspaper, or periodical that:

(i) 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;

(ii) Is broadcast, transmitted electronically or by other means, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

(iii) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value or cost of one thousand dollars or more.

(b) "Electioneering communication" does not include:

(i) 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 twelve months preceding the candidate becoming a candidate;

(ii) 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;

(iii) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(A) Of interest to the public;

(B) In a news medium controlled by a person whose business is that news medium; and

(C) Not a medium controlled by a candidate or a political or incidental committee;

(iv) Slate cards and sample ballots;

(v) Advertising for books, films, dissertations, or similar works (A) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or (B) written about a candidate;

(vi) Public service announcements;

(vii) 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;

(viii) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

(ix) Any other communication exempted by the commission through rule consistent with the intent of this chapter.

(22) "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 chapter, 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.

(23) "Final report" means the report described as a final report in RCW 42.17A.235(11)(a).

(24) "Foreign national" means:

(a) An individual who is not a citizen of the United States and is not lawfully admitted for permanent residence;

(b) A government, or subdivision, of a foreign country;

(c) A foreign political party; and

(d) 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.

(25) "General election" for the purposes of RCW 42.17A.405 means the election that results in the election of a person to a state or local office. It does not include a primary.

(26) "Gift" has the definition in RCW 42.52.010.

(27) "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 this section, "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.

(28) "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, 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 chapter.

(29) "Incumbent" means a person who is in present possession of an elected office.

(30)(a) "Independent expenditure" means an expenditure that has each of the following elements:

(i) It is made in support of or in opposition to a candidate for office by a person who is not:

(A) A candidate for that office;

(B) An authorized committee of that candidate for that office; and

(C) 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;

(ii) 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;

(iii) 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

(iv) 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 one thousand dollars or more. A series of expenditures, each of which is under one thousand dollars, constitutes one independent expenditure if their cumulative value is one thousand dollars or more.

(b) "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 two hundred fifty dollars personally paid for by the worker.

(31)(a) "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.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

(32) "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.

(33) "Legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

(34) "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.

(35) "Lobbyist" includes any person who lobbies either on the person's own or another's behalf.

(36) "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.

(37) "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.

(38) "Participate" means that, with respect to a particular election, an entity:

- (a) Makes either a monetary or in-kind contribution to a candidate;
- (b) Makes an independent expenditure or electioneering communication in support of or opposition to a candidate;
- (c) Endorses a candidate before contributions are made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

(d) 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

(e) 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.

(39) "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.

(40) "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.

(41) "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.

(42) "Primary" for the purposes of RCW 42.17A.405 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.

(43) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

(44) "Public record" has the definition in RCW 42.56.010.

(45) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29A.56.120 and ending thirty days after the recall election.

(46) "Remediable violation" means any violation of this chapter that:

(a) Involved expenditures or contributions totaling no more than the contribution limits set out under RCW 42.17A.405(2) per election, or one thousand dollars if there is no statutory limit;

(b) Occurred:

(i) More than thirty days before an election, where the commission entered into an agreement to resolve the matter; or

(ii) 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 chapter;

(c) Does not materially harm the public interest, beyond the harm to the policy of this chapter inherent in any violation; and

(d) Involved:

(i) A person who:



(A) 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 twenty-one days after the report was due to be filed; and

(B) Substantially met the filing deadline for all other required reports within the immediately preceding twelve-month period; or

(ii) A candidate who:

(A) Lost the election in question; and

(B) Did not receive contributions over one hundred times the contribution limit in aggregate per election during the campaign in question.

(47)(a) "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.

(b) "Sponsor," for purposes of a political or incidental committee, means any person, except an authorized committee, to whom any of the following applies:

(i) The committee receives eighty percent or more of its contributions either from the person or from the person's members, officers, employees, or shareholders;

(ii) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(48) "Sponsored committee" means a committee, other than an authorized committee, that has one or more sponsors.

(49) "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.

(50) "State official" means a person who holds a state office.

(51) "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.

(52) "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 chapter.

(53) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political or incidental committee, pursuant to RCW 42.17A.210, to perform the duties specified in that section.

(54) "Violation" means a violation of this chapter that is not a remediable violation, minor violation, or an error classified by the commission as appropriate to address by a technical correction.

**Sec. 15.** RCW 42.52.010 and 2011 c 60 s 28 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 section 2 of this act that is operated in conformance with section 2 of this act.

(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.

(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 days of receipt or donated to a charitable organization within thirty days of receipt;

(h) Campaign contributions reported under chapter 42.17A 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) "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.

(13) "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.

(14) "Person" means any individual, partnership, association, corporation, firm, institution, or other entity, whether or not operated for profit.

(15) "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.

(16) "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.

(17) "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.

(18) "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.

(19) "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.

(20) "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.

(21)(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.

(22) "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(~~(, including without limitation, the Spokane intercollegiate research and technology institute and the Washington technology center)).~~

(23) "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.

Passed by the House February 14, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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**CHAPTER 72**

[Engrossed House Bill 1752]

## DEFERRED COMPENSATION PLANS—ROTH OPTION

AN ACT Relating to adding a Roth option to deferred compensation plans; amending RCW 41.50.770; and creating a new section.

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

**Sec. 1.** RCW 41.50.770 and 2020 c 160 s 4 are each amended to read as follows:

(1) "Employee" as used in this section and RCW 41.50.780 includes all full-time, part-time, and career seasonal employees of the state, a county, a municipality, or other political subdivision of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of the government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and of the superior and district courts; and members of the state legislature or of the legislative authority of any county, city, or town.

(2) The state, through the department, and any county, municipality, or other political subdivision of the state acting through its principal supervising official or governing body is authorized to contract with an employee to defer a portion of that employee's income, which deferred portion shall in no event exceed the amount allowable under 26 U.S.C. Sec. 401(a) or 457, and deposit or invest such deferred portion in a credit union, savings and loan association, bank, or mutual savings bank or purchase life insurance, shares of an investment company, individual securities, or fixed and/or variable annuity contracts from any insurance company or any investment company licensed to contract business in this state.

(3) Beginning no later than January 1, 2017, all persons newly employed by the state on a full-time basis who are eligible to participate in a deferred compensation plan under 26 U.S.C. Sec. 457 shall be enrolled in the state deferred compensation plan unless the employee affirmatively elects to waive participation in the plan. Persons who participate in the plan without having selected a deferral amount or investment option shall contribute three percent of taxable compensation to their plan account which shall be invested in a default option selected by the state investment board in consultation with the director. This subsection does not apply to higher education undergraduate and graduate student employees and shall be administered consistent with the requirements of the federal internal revenue code.

(4) Beginning no later than January 1, 2017, any county, municipality, or other political subdivision offering the state deferred compensation plan authorized under this section, may choose to administer the plan with an opt-out feature for new employees as described in subsection (3) of this section.

(5) Beginning no later than December 1, 2023, the department must offer employees a Roth option in the deferred compensation plan under 26 U.S.C. Sec. 457.

(6) Employees participating in the state deferred compensation plan under 26 U.S.C. Sec. 457 or money-purchase retirement savings plan under 26 U.S.C.

Sec. 401(a) administered by the department shall self-direct the investment of the deferred portion of their income through the selection of investment options as set forth in subsection ~~((6))~~ (7) of this section.

~~((6))~~ (7) The department can provide such plans as it deems are in the interests of state employees. In addition to the types of investments described in this section, the state investment board, with respect to the state deferred compensation plan under 26 U.S.C. Sec. 457 or money-purchase retirement savings plan under 26 U.S.C. Sec. 401(a), shall invest the deferred portion of an employee's income, without limitation as to amount, in accordance with RCW 43.84.150, 43.33A.140, and 41.50.780, and pursuant to investment policy established by the state investment board for the state deferred compensation plan under 26 U.S.C. Sec. 457 or money-purchase retirement savings plan under 26 U.S.C. Sec. 401(a). The state investment board, after consultation with the director regarding any recommendations made pursuant to RCW 41.50.088(2), shall provide a set of options for participants to choose from for investment of the deferred portion of their income. Any income deferred under these plans shall continue to be included as regular compensation, for the purpose of computing the state or local retirement and pension benefits earned by any employee.

~~((7))~~ (8) Any retirement strategy fund asset mix may include investment in a state investment board commingled fund. Retirement strategy fund means one of several diversified asset allocation portfolios managed by investment advisors under contract to the state investment board. The state investment board shall declare unit values for its commingled funds no less than monthly for the funds or portions thereof requiring valuation. The declared values shall be an approximation of portfolio or fund values, and both the values and the frequency of the valuation shall be based on internal procedures of the state investment board. Such declared unit values, the frequency of their valuation, and internal procedures shall be in the sole discretion of the state investment board. The state investment board may delegate any of the powers and duties under this subsection, including discretion, pursuant to RCW 43.33A.030.

~~((8))~~ (9) Coverage of an employee under optional salary deferral programs under this section shall not render such employee ineligible for simultaneous membership and participation in any pension system for public employees.

**NEW SECTION. Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the House February 2, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 73

[House Bill 1765]

HEALTH BENEFIT EXCHANGE—BUSINESS AND OCCUPATION TAX EXEMPTION—  
EXPIRATION DATE

AN ACT Relating to ensuring the ongoing sustainability and vitality of the Washington health benefit exchange by eliminating the expiration date of its business and occupation tax exemption; and amending RCW 82.04.323.

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

**Sec. 1.** RCW 82.04.323 and 2013 2nd sp.s. c 6 s 8 are each amended to read as follows:

~~((1))~~ The taxes imposed by this chapter do not apply to amounts received by the Washington health benefit exchange established under chapter 43.71 RCW.

~~((2) This section expires July 1, 2023.)~~

Passed by the House February 2, 2022.

Passed by the Senate March 4, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 74

[House Bill 1825]

## SINGLE JUDGE COURTS—CONTINUITY OF JUDICIAL OPERATIONS

AN ACT Relating to continuity of judicial operations in single judge courts; amending RCW 2.56.040, 2.08.120, 2.24.010, 3.34.150, 3.34.100, 3.34.130, 3.42.010, 3.50.075, and 3.50.090; adding a new section to chapter 2.56 RCW; and adding a new section to chapter 3.50 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 2.56 RCW to read as follows:

For purposes of this title and Title 3 RCW, unless the context clearly requires otherwise, "single judge court" means a court or judicial district that has only one judge.

**Sec. 2.** RCW 2.56.040 and 2005 c 182 s 1 are each amended to read as follows:

(1) The chief justice shall consider all recommendations of the administrator for the assignment of judges, and, in the discretion of the chief justice, direct any judge whose calendar, in the judgment of the chief justice, will permit, to hold court ~~((in any county or district))~~ where need therefor exists, to the end that the courts ~~((of))~~ in this state shall function with maximum efficiency, and that the work of other courts shall be equitably distributed. It shall be the duty of every judge to obey such direction of the chief justice unless excused by the chief justice for sufficient cause.

(2)(a) If due to illness, incapacity, resignation, death, or other unavailability the presiding judge in a single judge court is unable to fulfill the duties of the office, and either (i) no person has been designated by the presiding judge to serve as presiding judge pro tempore or (ii) the previously designated presiding judge pro tempore resigns, is removed from office, or is no longer able to serve, the chief justice may appoint another judicial officer or other person as the

presiding judge pro tempore who meets the qualifications of a judge pro tempore, subject to (c) of this subsection, during the remaining period of unavailability or until a vacancy is filled as provided by law.

(b) The chief justice may appoint someone other than the previously designated or appointed individual to serve as presiding judge pro tempore whenever the chief justice determines that the administration of justice would be better served by appointment of someone else to fulfill the presiding judge duties, subject to (c) of this subsection, during the remaining period of unavailability or until the vacancy is filled as provided by law.

(c) The chief justice, or designee, shall consult with the local legislative and executive authorities before removing or appointing a presiding judge pro tempore under (a) or (b) of this subsection.

(d) Nothing in this section is intended to modify the role of the commission on judicial conduct as provided in Article IV, section 31 of the Washington state Constitution and chapter 2.64 RCW.

**Sec. 3.** RCW 2.08.120 and 1955 c 38 s 5 are each amended to read as follows:

(1) If a vacancy occurs in the office of judge of the superior court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall be at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term.

(2) During any vacancy that occurs pursuant to subsection (1) of this section in a single judge court, a presiding judge pro tempore who has been predesignated pursuant to court rule or appointed pursuant to RCW 2.56.040(2) may fulfill presiding judge duties, and the authority of the predesignated or appointed presiding judge pro tempore endures until the chief justice appoints someone else to fulfill the presiding judge duties pursuant to RCW 2.56.040(2)(b), or until a vacancy in the position is filled as provided by law, whichever occurs first.

**Sec. 4.** RCW 2.24.010 and 2021 c 311 s 17 are each amended to read as follows:

(1) There may be appointed in each county or judicial district, by the judges of the superior court having jurisdiction therein or a presiding judge pro tempore who is fulfilling presiding judge duties for a single judge court pursuant to RCW 2.08.120(2), one or more court commissioners for said county or judicial district. Each such commissioner shall be a citizen of the United States and shall hold the office during the pleasure of the judges making the appointment.

(2)(a) There may be appointed in counties with a population of more than four hundred thousand, by the presiding judge of the superior court having jurisdiction therein, one or more attorneys to act as criminal commissioners to assist the superior court in disposing of adult criminal cases. Such criminal commissioners shall have power, authority, and jurisdiction, concurrent with the superior court and the judges thereof, in adult criminal cases, to preside over arraignments, preliminary appearances, initial extradition hearings, and noncompliance proceedings pursuant to RCW 9.94A.6333 or 9.94B.040; accept pleas if authorized by local court rules; appoint counsel; make determinations of probable cause; set, amend, and review conditions of pretrial release; set bail; set



trial and hearing dates; authorize continuances; accept waivers of the right to speedy trial; and authorize and issue search warrants and orders to intercept, monitor, or record wired or wireless telecommunications or for the installation of electronic taps or other devices to include, but not be limited to, vehicle global positioning system or other mobile tracking devices with all the powers conferred upon the judge of the superior court in such matters.

(b) Criminal commissioners shall also have the authority to conduct resentencing hearings and to vacate convictions related to *State v. Blake*, No. 96873-0 (Feb. 25, 2021). Criminal commissioners may be appointed for this purpose regardless of the population of the county served by the appointing court.

(c) The county legislative authority must approve the creation of criminal commissioner positions.

**Sec. 5.** RCW 3.34.150 and 1989 c 227 s 7 are each amended to read as follows:

(1) If a district has more than one judge, the supreme court may by rule provide for the manner of selection of one of the judges to serve as presiding judge and prescribe the presiding judge's duties. If a county has multiple districts or has one district with multiple electoral districts, the supreme court may by rule provide for the manner of selection of one of the judges to serve as presiding judge and prescribe the presiding judge's duties.

(2) Pursuant to court rule or RCW 2.56.040(2), a presiding judge pro tempore may be predesignated or appointed to fulfill presiding judge duties in case of the illness, incapacity, resignation, death, or unavailability of the presiding judge of a single judge court. In such circumstances, the authority of the predesignated or appointed presiding judge pro tempore endures until the chief justice appoints someone else to fulfill the presiding judge duties pursuant to RCW 2.56.040(2)(b), or the period of such illness, incapacity, or unavailability ends, or until a vacancy in the position is filled as provided by law, whichever occurs first.

**Sec. 6.** RCW 3.34.100 and 2003 c 97 s 3 are each amended to read as follows:

(1) If a district judge dies, resigns, is convicted of a felony, ceases to reside in the district, fails to serve for any reason except temporary disability, or if his or her term of office is terminated in any other manner, the office shall be deemed vacant. The county legislative authority shall fill all vacancies by appointment and the judge thus appointed shall hold office until the next general election and until a successor is elected and qualified. However, if a vacancy in the office of district court judge occurs and the total number of district court judges remaining in the county is equal to or greater than the number of district court judges authorized in RCW 3.34.010 then the position shall remain vacant. District judges shall be granted sick leave in the same manner as other county employees. A district judge may receive when vacating office remuneration for unused accumulated leave and sick leave at a rate equal to one day's monetary compensation for each full day of accrued leave and one day's monetary compensation for each four full days of accrued sick leave, the total remuneration for leave and sick leave not to exceed the equivalent of thirty days' monetary compensation.

(2) During any vacancy that occurs pursuant to subsection (1) of this section in a single judge court, a presiding judge pro tempore who has been predesignated pursuant to court rule or appointed pursuant to RCW 2.56.040(2) may fulfill presiding judge duties, and the authority of the predesignated or appointed presiding judge pro tempore endures until the chief justice appoints someone else to fulfill the presiding judge duties pursuant to RCW 2.56.040(2)(b), or until a vacancy in the position is filled as provided by law, whichever occurs first.

**Sec. 7.** RCW 3.34.130 and 1996 c 16 s 1 are each amended to read as follows:

(1) ~~(Each)~~ In addition to the designation of a presiding judge pro tempore for a single judge court as provided in RCW 3.34.150(2), each district court shall designate one or more persons as judge pro tempore who shall serve during the temporary absence, disqualification, or incapacity of a district judge or to serve as an additional judge for excess caseload or special set cases. The qualifications of a judge pro tempore shall be the same as for a district judge, except that with respect to RCW 3.34.060(1), the person appointed need only be a registered voter of the state. A district that has a population of not more than ten thousand and that has no person available who meets the qualifications under RCW 3.34.060(2) (a) or (b), may appoint as a pro tempore judge a person who has taken and passed the qualifying examination for the office of district judge as is provided by rule of the supreme court. A judge pro tempore may sit in any district of the county for which he or she is appointed. A judge pro tempore shall be paid the salary authorized by the county legislative authority.

(2) For each day that a judge pro tempore serves in excess of thirty days during any calendar year, the annual salary of the district judge in whose place the judge pro tempore serves shall be reduced by an amount equal to one-two hundred fiftieth of such salary: PROVIDED, That each full time district judge shall have up to fifteen days annual leave without reduction for service on judicial commissions established by the legislature or the chief justice of the supreme court. No reduction in salary shall occur when a judge pro tempore serves:

(a) While a district judge is using sick leave granted in accordance with RCW 3.34.100;

(b) While a district court judge is disqualified from serving following the filing of an affidavit of prejudice;

(c) As an additional judge for excess case load or special set cases; or

(d) While a district judge is otherwise involved in administrative, educational, or judicial functions related to the performance of the judge's duties: PROVIDED, That the appointment of judge pro tempore authorized under subsection (2)(c) and (d) of this section is subject to an appropriation for this purpose by the county legislative authority.

(3) The legislature may appropriate money for the purpose of reimbursing counties for the salaries of judges pro tempore for certain days in excess of thirty worked per year that the judge pro tempore was required to work as the result of service by a judge on a commission as authorized under subsection (2) of this section. No later than September 1 of each year, each county treasurer shall certify to the administrator for the courts for the year ending the preceding June 30, the number of days in excess of thirty that any judge pro tempore was

required to work as the result of service by a judge on a commission as authorized under subsection (2) of this section. Upon receipt of the certification, the administrator for the courts shall reimburse the county from money appropriated for that purpose.

**Sec. 8.** RCW 3.42.010 and 1984 c 258 s 30 are each amended to read as follows:

When so authorized by the districting plan, one or more district court commissioners may be appointed in any district by the judges of the district. Each commissioner shall be a registered voter of the county in which the district or a portion thereof is located, and shall hold office at the pleasure of the appointing judges. For purposes of this section, "appointing judge" includes a presiding judge pro tempore fulfilling presiding judge duties for a single judge court pursuant to RCW 3.34.100(2) or 3.34.150(2). Any person appointed as a commissioner authorized to hear or dispose of cases shall be a lawyer who is admitted to the practice of law in the state of Washington or who has passed the qualifying examination for lay judges as provided under RCW 3.34.060.

**NEW SECTION. Sec. 9.** A new section is added to chapter 3.50 RCW to read as follows:

During any vacancy that occurs in a single judge court pursuant to RCW 3.50.093 or 3.50.095, a presiding judge pro tempore who has been predesignated pursuant to court rule or appointed pursuant to RCW 2.56.040(2) may fulfill presiding judge duties, and the authority of the predesignated or appointed presiding judge pro tempore endures until the chief justice appoints someone else to fulfill the presiding judge duties pursuant to RCW 2.56.040(2)(b), or until a vacancy in the position is filled as provided by law, whichever occurs first.

**Sec. 10.** RCW 3.50.075 and 2019 c 52 s 1 are each amended to read as follows:

(1) One or more court commissioners may be appointed by a judge of the municipal court.

(2) Each commissioner holds office at the pleasure of the appointing judge.

(3) Except as provided in subsection (4) of this section, a commissioner has such power, authority, and jurisdiction in criminal and civil matters as the appointing judges possess, and must be a lawyer who is admitted to practice law in the state of Washington or a nonlawyer who has passed, by January 1, 2003, the qualifying examination for lay judges for courts of limited jurisdiction under RCW 3.34.060.

(4) On or after July 1, 2010, when serving as a commissioner, the commissioner does not have authority to preside over trials in criminal matters, or jury trials in civil matters unless agreed to on the record by all parties.

(5) A commissioner need not be a resident of the city or of the county in which the municipal court is created. When a court commissioner has not been appointed and the municipal court is presided over by a part-time appointed judge, the judge need not be a resident of the city or of the county in which the municipal court is created.

(6) For purposes of this section, "appointing judge" includes a presiding judge pro tempore fulfilling presiding judge duties for a single judge court pursuant to RCW 3.50.090(2).

**Sec. 11.** RCW 3.50.090 and 2000 c 55 s 1 are each amended to read as follows:

~~((The))~~ (1) In addition to the designation of a presiding judge pro tempore for a single judge court as provided in RCW 3.50.090(2), the presiding municipal court judge may designate one or more persons as judges pro tem to serve in the absence or disability of the elected or duly appointed judges of the court, subsequent to the filing of an affidavit of prejudice, or in addition to the elected or duly appointed judges when the administration of justice and the accomplishment of the work of the court make it necessary. The qualifications of a judge pro tempore shall be the same as for judges as provided under RCW 3.50.040 except that a judge pro tempore need not be a resident of the city or county in which the municipal court is located. Judges pro tempore shall have all of the powers of the duly appointed or elected judges when serving as judges pro tempore of the court. Before entering on his or her duties, each judge pro tempore shall take, subscribe, and file an oath as is taken by a duly appointed or elected judge. Such pro tempore judges shall receive such compensation as shall be fixed by ordinance by the municipality in which the court is located and such compensation shall be paid by the municipality.

(2) If a presiding municipal court judge is the single judge of the court, then pursuant to court rule or RCW 2.56.040(2), a presiding judge pro tempore may be predesignated or appointed to fulfill presiding judge duties in case of the illness, incapacity, resignation, death, or unavailability of the presiding judge. In such circumstances, the authority of the predesignated or appointed presiding judge pro tempore endures until the chief justice appoints someone else to fulfill the presiding judge duties pursuant to RCW 2.56.040(2)(b), or the period of such illness, incapacity, or unavailability ends, or until a vacancy in the position is filled as provided by law, whichever occurs first.

Passed by the House March 7, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 75

[Substitute House Bill 1867]

### ANNUAL DUAL CREDIT REPORT—MODIFICATION

AN ACT Relating to dual credit program data; amending RCW 28A.600.280, 28A.175.145, 28A.300.560, 28A.320.196, 28A.700.030, and 28C.18.162; and reenacting and amending RCW 28A.600.160.

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

**Sec. 1.** RCW 28A.600.280 and 2012 c 229 s 505 are each amended to read as follows:

(1) The ~~((office of the superintendent of public instruction))~~ education data center established in RCW 43.41.400, in collaboration with the office of the superintendent of public instruction, the state board of education, the state board for community and technical colleges, the Washington state apprenticeship and training council, the workforce training and education coordinating board, the student achievement council, and the public ~~((baccalaureate))~~ four-year

institutions (~~(and the education data center,)~~) of higher education, shall prepare the dual credit report ((by September 1, 2010, and annually thereafter to the education and higher education committees of the legislature regarding participation in dual credit programs. The report shall include)) required by this section.

(2) Annually, by September 1st, the education data center must submit the report to the appropriate committees of the legislature, in accordance with RCW 43.01.036.

(3) The report must include:

(a) Data about student participation rates ((and)), award of high school credit, award of postsecondary credit at an institution of higher education, and academic performance ((including but not limited to running start, college in the high school, tech prep, international baccalaureate, advanced placement, and running start for the trades)) for each dual credit program; and

(b) Data on the total unduplicated head count and percentage of students enrolled, students who have been awarded high school credit, and students who have been awarded postsecondary credit at an institution of higher education, in at least one dual credit program course(~~(and~~

(c) The percentage of students who enrolled in at least one dual credit program as percent of all students enrolled in grades nine through twelve)).

((~~(2)~~)) (4) Data ((on student participation shall)) described in subsection (3) of this section must be disaggregated by ((race, ethnicity, gender, and receipt of free or reduced-price lunch)) dual credit program, by the student categories and subcategories described in RCW 28A.300.042 (1) and (3), and by:

(a) Gender;

(b) Students who are dependent pursuant to chapter 13.34 RCW;

(c) Students who are homeless as defined in RCW 43.330.702; and

(d) Multilingual/English learners.

(5)(a) The report must also recommend additional categories of data reporting and disaggregation. For each additional category, the report must describe:

(i) The purpose for reporting on, or disaggregating by, the category;

(ii) The specific metric or indicator to be used;

(iii) Whether the specific metric or indicator is a new data point; and

(iv) Which educational entities should be responsible for collecting the data.

(b) The 2022 report must recommend whether to require: (i) Reporting of data related to the application of postsecondary credits earned through a dual credit program towards postsecondary credentials and degrees; and (ii) comparison of postsecondary credential and degree attainment between students who did or did not participate in a dual credit program, and between students who participated in different dual credit programs.

(6) For the purposes of this section, "dual credit program" means running start under RCW 28A.600.300, college in the high school under RCW 28A.600.287, career and technical education dual credit, Cambridge international, international baccalaureate, advanced placement, and other programs in which a student qualifies for postsecondary and high school credit upon either successfully completing the course or passing an exam.

**Sec. 2.** RCW 28A.175.145 and 2011 c 288 s 5 are each amended to read as follows:

(1)(a) Subject to funds appropriated for this purpose or otherwise available in the account established in RCW 28A.175.155, beginning in the 2011-12 school year and each year thereafter, a high school that demonstrates improvement in its dropout prevention score compared to the baseline school year as calculated under RCW 28A.175.140 may receive a PASS program award as provided under this section. The legislature intends to recognize and reward continuous improvement by using a baseline year for calculating eligibility for PASS program awards so that a high school retains previously earned award funds from one year to the next unless its performance declines.

(b) The office of the superintendent of public instruction must determine the amount of PASS program awards based on appropriated funds and eligible high schools. The intent of the legislature is to provide an award to each eligible high school commensurate with the degree of improvement in the high school's dropout prevention score and the size of the high school. The office must establish a minimum award amount. If funds available for PASS program awards are not sufficient to provide an award to each eligible high school, the office of the superintendent of public instruction shall establish objective criteria to prioritize awards based on eligible high schools with the greatest need for additional dropout prevention and intervention services. The office of the superintendent of public instruction shall encourage and may require a high school receiving a PASS program award to demonstrate an amount of community matching funds or an amount of in-kind community services to support dropout prevention and intervention.

(c) Ninety percent of an award under this section must be allocated to the eligible high school to be used for dropout prevention activities in the school as specified in subsection (2) of this section. The principal of the high school shall determine the use of funds after consultation with parents and certificated and classified staff of the school.

(d) Ten percent of an award under this section must be allocated to the school district in which the eligible high school is located to be used for dropout prevention activities as specified in subsection (2) of this section in the high school or in other schools in the district.

(e) The office of the superintendent of public instruction may withhold distribution of award funds under this section to an otherwise eligible high school or school district if the superintendent of public instruction issues a finding that the school or school district has willfully manipulated the dropout prevention indicators under RCW 28A.175.140, for example by expelling, suspending, transferring, or refusing to enroll students at risk of dropping out of school or at risk of low achievement.

(2) High schools and school districts may use PASS program award funds for any programs or activities that support the development of a dropout prevention, intervention, and reengagement system as described in RCW 28A.175.074, offered directly by the school or school district or under contract with education agencies or community-based organizations, including but not limited to educational service districts(~~(s)~~) and workforce development councils(~~(, and boys and girls clubs)~~). Such programs or activities may include but are not limited to the following:

(a) Strategies to close the educational opportunity and achievement (~~(gap for disadvantaged students and minority students)~~) gaps among groups of

students as disaggregated by the categories and subcategories in RCW 28A.300.042 (1) and (3);

- (b) Use of graduation coaches as defined in RCW 28A.175.150;
  - (c) Opportunity internship activities under RCW 28C.18.164;
  - (d) Dropout reengagement programs provided by community-based organizations or community and technical colleges;
  - (e) Comprehensive guidance and planning programs as defined under RCW 28A.600.045, including but not limited to the navigation 101 program;
  - (f) Reduced class sizes, extended school day, extended school year, and tutoring programs for students identified as at risk of dropping out of school, including instruction to assist these students in meeting graduation requirements in mathematics and science;
  - (g) Outreach and counseling targeted to students identified as at risk of dropping out of school, or who have dropped out of school, to encourage them to consider learning alternatives such as preapprenticeship programs, skill centers, running start, technical high schools, and other options for completing a high school diploma;
  - (h) Preapprenticeship programs (~~(or running start for the trades initiatives)~~) under RCW 49.04.190;
  - (i) Mentoring programs for students;
  - (j) Development and use of dropout early warning data systems;
  - (k) Counseling, resource and referral services, and intervention programs to address social, behavioral, and health factors associated with dropping out of school;
  - (l) Implementing programs for in-school suspension or other strategies to avoid excluding middle and high school students from the school whenever possible;
  - (m) Parent engagement activities such as home visits and off-campus parent support group meetings related to dropout prevention and reengagement; and
  - (n) Early learning programs for prekindergarten students.
- (3) High schools and school districts are encouraged to implement dropout prevention and reengagement strategies in a comprehensive and systematic manner, using strategic planning, school improvement plans, evaluation and feedback, and response to intervention tools.

**Sec. 3.** RCW 28A.300.560 and 2021 c 71 s 3 are each amended to read as follows:

In addition to data on student enrollment in dual credit courses, the office of the superintendent of public instruction shall collect and post on the Washington state report card website the rates at which students earn college credit through a dual credit course, using the following criteria:

- (1) Students who achieve a score of three or higher on an AP examination;
- (2) Students who achieve a score of four or higher on an examination of the international baccalaureate diploma programme;
- (3) Students who successfully complete a Cambridge advanced international certificate of education examination;
- (4) Students who successfully complete a course through the college in the high school program under RCW 28A.600.287 and are awarded credit by the partnering institution of higher education;

(5) Students who satisfy the dual enrollment and class performance requirements to earn college credit through a (~~(tech prep)~~) career and technical education course; and

(6) Students who successfully complete a course through the running start program under RCW 28A.600.300 and are awarded credit by the institution of higher education.

**Sec. 4.** RCW 28A.320.196 and 2021 c 71 s 4 are each amended to read as follows:

(1) Subject to funds appropriated specifically for this purpose, the academic acceleration incentive program is established as provided in this section. The intent of the legislature is that the funds awarded under the program be used to support teacher training, curriculum, technology, examination fees, textbook fees, and other costs associated with offering dual credit courses to high school students, including transportation for running start students to and from the institution of higher education as defined in RCW 28A.600.300.

(2) The office of the superintendent of public instruction shall allocate half of the funds appropriated for the purposes of this section on a competitive basis to provide one-time grants for high schools to expand the availability of dual credit courses. To be eligible for a grant, a school district must have adopted an academic acceleration policy as provided under RCW 28A.320.195. In making grant awards, the office of the superintendent of public instruction must give priority to grants for high schools with a high proportion of low-income students and high schools seeking to develop new capacity for dual credit courses rather than proposing marginal expansion of current capacity.

(3) The office of the superintendent of public instruction shall allocate half of the funds appropriated for the purposes of this section to school districts as an incentive award for each student who earned dual high school and college credit, as described under subsection (4) of this section, for courses offered by the district's high schools during the previous school year. School districts must distribute the award to the high schools that generated the funds. The award amount for low-income students eligible to participate in the federal free and reduced-price meals program who earn dual credits must be set at one hundred twenty-five percent of the base award for other students. A student who earns more than one dual credit in the same school year counts only once for the purposes of the incentive award.

(4) For the purposes of this section, the following students are considered to have earned dual high school and college credit in a course offered by a high school:

(a) Students who achieve a score of three or higher on an AP examination;

(b) Students who achieve a score of four or higher on an examination of the international baccalaureate diploma programme;

(c) Students who successfully complete a Cambridge advanced international certificate of education examination;

(d) Students who successfully complete a course through the college in the high school program under RCW 28A.600.287 and are awarded credit by the partnering institution of higher education; and

(e) Students who satisfy the dual enrollment and class performance requirements to earn college credit through a (~~(tech prep)~~) career and technical education course.



(5) If a high school provides access to online courses for students to earn dual high school and college credit at no cost to the student, such a course is considered to be offered by the high school.

(6) The office of the superintendent of public instruction shall report to the education policy committees and the fiscal committees of the legislature, by January 1st of each year, information about the demographics of the students earning dual credits in the schools receiving grants under this section for the prior school year. Demographic data shall be disaggregated pursuant to RCW 28A.300.042.

**Sec. 5.** RCW 28A.600.160 and 2009 c 556 s 14 and 2009 c 450 s 6 are each reenacted and amended to read as follows:

Any middle school, junior high school, or high school using educational pathways shall ensure that all participating students will continue to have access to the courses and instruction necessary to meet admission requirements at baccalaureate institutions. Students shall be allowed to enter the educational pathway of their choice. Before accepting a student into an educational pathway, the school shall inform the student's parent of the pathway chosen, the opportunities available to the student through the pathway, and the career objectives the student will have exposure to while pursuing the pathway. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically (~~(request [requests])~~) requests information to be provided in written form. Parents and students dissatisfied with the opportunities available through the selected educational pathway shall be provided with the opportunity to transfer the student to any other pathway provided in the school. Schools may not develop educational pathways that retain students in high school beyond the date they are eligible to graduate, and may not require students who transfer between pathways to complete pathway requirements beyond the date the student is eligible to graduate. Educational pathways may include, but are not limited to, programs such as worksite learning, internships, (~~(tech prep,)~~) career and technical education, running start, college in the high school, (~~(running start for the trades,)~~) and preparation for technical college, community college, or university education.

**Sec. 6.** RCW 28A.700.030 and 2008 c 170 s 103 are each amended to read as follows:

All approved preparatory secondary career and technical education programs must meet the following minimum criteria:

(1) Either:

(a) Lead to a certificate or credential that is state or nationally recognized by trades, industries, or other professional associations as necessary for employment or advancement in that field; or

(b) Allow students to earn dual credit for high school and college through (~~(tech prep)~~) career and technical education, advanced placement, or other agreements or programs;

(2) Be comprised of a sequenced progression of multiple courses that are technically intensive and rigorous; and

(3) Lead to workforce entry, state or nationally approved apprenticeships, or postsecondary education in a related field.

**Sec. 7.** RCW 28C.18.162 and 2009 c 238 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 28C.18.160 and 28C.18.164 through 28C.18.168.

(1) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities.

(2) "Low-income high school student" means a student who is enrolled in ~~((grades ten, eleven, or twelve))~~ grade 10, 11, or 12 in a public high school and who qualifies for federal free or reduced-price meals. If a student qualifies at the time the student begins participating in the opportunity internship program, the student remains eligible even if the student does not receive free or reduced-price meals thereafter. To participate in the program, the student must remain enrolled in high school until the student receives a high school diploma.

(3) "Opportunity internship consortium" means a local consortium formed for the purpose of participating in the opportunity internship program and which may be composed of a local workforce development council, economic development council, area high schools, community or technical colleges, apprenticeship councils, preapprenticeship programs ~~((such as running start for the trades))~~, private vocational schools licensed under chapter 28C.10 RCW, public and private four-year institutions of higher education, employers in targeted industries, and labor organizations.

(4) "Opportunity internship graduate" means a low-income high school student who successfully completes an opportunity internship program and graduates from high school.

(5) "Postsecondary program of study" means an undergraduate or graduate certificate, apprenticeship, or degree program.

(6) "Preapprenticeship" means a program of at least ninety hours and not more than one hundred eighty hours in length that provides practical experience, education, preparation, and the development of skills that would be beneficial for entry into state-approved apprenticeship programs, including but not limited to construction industry structure and the construction process; orientation to state-approved apprenticeship; tools of the various trades and safe handling of power tools; and industry standards of safety, responsibility, and craft excellence.

(7) "Targeted industry" means a business or industry identified by a local workforce development council as having high-demand occupations that require candidates to have completed a postsecondary program of study.

Passed by the House February 8, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 76

[Second Substitute House Bill 1890]

### CHILDREN AND YOUTH BEHAVIORAL HEALTH WORK GROUP—MODIFICATION

AN ACT Relating to the children and youth behavioral health work group; amending RCW 74.09.4951; and creating a new section.

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

**Sec. 1.** RCW 74.09.4951 and 2020 c 130 s 1 are each amended to read as follows:

(1) The children and youth behavioral health work group is established to identify barriers to and opportunities for accessing behavioral health services for children and their families, and to advise the legislature on statewide behavioral health services for this population.

(2) The work group shall consist of members and alternates as provided in this subsection. Members must represent the regional, racial, and cultural diversity of all children and families in the state.

(a) The president of the senate shall appoint one member and one alternate from each of the two largest caucuses in the senate.

(b) The speaker of the house of representatives shall appoint one member and one alternate from each of the two largest caucuses in the house of representatives.

(c) The governor shall appoint six members representing the following state agencies and offices: The department of children, youth, and families; the department of social and health services; the health care authority; the department of health; the office of homeless youth prevention and protection programs; and the office of the governor.

(d) The governor shall appoint the following members:

(i) One representative of behavioral health administrative services organizations;

(ii) One representative of community mental health agencies;

(iii) ~~One representative~~ Two representatives of medicaid managed care organizations, one of which must provide managed care to children and youth receiving child welfare services;

(iv) One regional provider of co-occurring disorder services;

(v) One pediatrician or primary care provider;

(vi) One provider specializing in infant or early childhood mental health;

(vii) One representative who advocates for behavioral health issues on behalf of children and youth;

(viii) One representative of early learning and child care providers;

(ix) One representative of the evidence-based practice institute;

(x) Two parents or caregivers of children who have received behavioral health services, one of which must have a child under the age of six;

(xi) One representative of an education or teaching institution that provides training for mental health professionals;

(xii) One foster parent;

(xiii) One representative of providers of culturally and linguistically appropriate health services to traditionally underserved communities;

(xiv) One pediatrician located east of the crest of the Cascade mountains;

(xv) One child psychiatrist;

(xvi) One representative of an organization representing the interests of individuals with developmental disabilities;

(xvii) Two youth representatives who have received behavioral health services;

(xviii) One representative of a private insurance organization;

(xix) One representative from the statewide family youth system partner roundtable established in the *T.R. v. Strange and McDermott*, formerly the *T.R. v. Dreyfus and Porter*, settlement agreement; and

(xx) One substance use disorder professional.

(e) The governor shall request participation by a representative of tribal governments.

(f) The superintendent of public instruction shall appoint one representative from the office of the superintendent of public instruction.

(g) The insurance commissioner shall appoint one representative from the office of the insurance commissioner.

(h) The work group shall choose its cochairs, one from among its legislative members and one from among the executive branch members. The representative from the health care authority shall convene at least two, but not more than (~~four~~) six, meetings of the work group each year.

(i) The cochairs may invite additional members of the house of representatives and the senate to participate in work group activities, including as leaders of advisory groups to the workgroup. These legislators are not required to be formally appointed members of the work group in order to participate in or lead advisory groups.

(3) The work group shall:

(a) Monitor the implementation of enacted legislation, programs, and policies related to children and youth behavioral health, including provider payment for mood, anxiety, and substance use disorder prevention, screening, diagnosis, and treatment for children and young mothers; consultation services for child care providers caring for children with symptoms of trauma; home visiting services; and streamlining agency rules for providers of behavioral health services;

(b) Consider system strategies to improve coordination and remove barriers between the early learning, K-12 education, and health care systems;

(c) Identify opportunities to remove barriers to treatment and strengthen behavioral health service delivery for children and youth;

(d) Determine the strategies and resources needed to:

(i) Improve inpatient and outpatient access to behavioral health services;

(ii) Support the unique needs of young children prenatally through age five, including promoting health and social and emotional development in the context of children's family, community, and culture; and

(iii) Develop and sustain system improvements to support the behavioral health needs of children and youth; and

(e) Consider issues and recommendations put forward by the statewide family youth system partner roundtable established in the *T.R. v. Strange and McDermott*, formerly the *T.R. v. Dreyfus and Porter*, settlement agreement.

(4) At the direction of the cochairs, the work group may convene advisory groups to evaluate specific issues and report related findings and recommendations to the full work group.

(5) The work group shall convene an advisory group focused on school-based behavioral health and suicide prevention. The advisory group shall advise the full work group on creating and maintaining an integrated system of care through a tiered support framework for kindergarten through twelfth grade school systems defined by the office of the superintendent of public instruction

and behavioral health care systems that can rapidly identify students in need of care and effectively link these students to appropriate services, provide age-appropriate education on behavioral health and other universal supports for social-emotional wellness for all students, and improve both education and behavioral health outcomes for students. The work group cochairs may invite nonwork group members to participate as advisory group members.

(6)(a) Subject to the availability of amounts appropriated for this specific purpose, the work group shall convene an advisory group for the purpose of developing a draft strategic plan that describes:

(i) The current landscape of behavioral health services available to families in the perinatal phase, children, youth transitioning into adulthood, and the caregivers of those children and youth in Washington state, including a description of:

(A) The gaps and barriers in receiving or accessing behavioral health services, including services for co-occurring behavioral health disorders or other conditions;

(B) Access to high quality, equitable care and supports in behavioral health education and promotion, prevention, intervention, treatment, recovery, and ongoing well-being supports;

(C) The current supports and services that address emerging behavioral health issues before a diagnosis and more intensive services or clinical treatment is needed; and

(D) The current behavioral health care oversight and management of services and systems;

(ii) The vision for the behavioral health service delivery system for families in the perinatal phase, children, youth transitioning into adulthood, and the caregivers of those children and youth, including:

(A) A complete continuum of services from education, promotion, prevention, early intervention through crisis response, intensive treatment, postintervention, and recovery, as well as supports that sustain wellness in the behavioral health spectrum;

(B) How access can be provided to high quality, equitable care and supports in behavioral health education, promotion, prevention, intervention, recovery, and ongoing well-being when and where needed;

(C) How the children and youth behavioral health system must successfully pair with the 988 behavioral health crisis response described under chapter 82.86 RCW;

(D) The incremental steps needed to achieve the vision for the behavioral health service delivery system based on the current gaps and barriers for accessing behavioral health services, with estimated dates for these steps; and

(E) The oversight and management needed to ensure effective behavioral health care; and

(iii) A comparison of the current behavioral health system for families in the perinatal phase, children, youth transitioning into adulthood, and the caregivers of those children and youth that is primarily based on crisis response and inadequate capacity with the behavioral health system vision created by the strategic planning process through a cost-benefit analysis.

(b) The work group cochairs may invite nonwork group members to participate as advisory group members, but the strategic plan advisory group shall include, at a minimum:

(i) Community members with lived experience including those with cultural, linguistic, and ethnic diversity, as well as those having diverse experience with behavioral health care invited by the work group cochairs;

(ii) A representative from the department of children, youth, and families;

(iii) A representative from the department;

(iv) A representative from the authority;

(v) A representative from the department of health;

(vi) A representative from the office of homeless youth prevention and protection programs;

(vii) A representative from the office of the governor;

(viii) A representative from the developmental disability administration of the department of social and health services;

(ix) A representative from the office of the superintendent of public instruction;

(x) A representative from the office of the insurance commissioner;

(xi) A tribal representative;

(xii) Two legislative members or alternates from the work group; and

(xiii) Individuals invited by the work group cochairs with relevant subject matter expertise.

(c) The health care authority shall conduct competitive procurements as necessary in accordance with chapter 39.26 RCW to select a third-party facilitator to facilitate the strategic plan advisory group.

(d) To assist the strategic plan advisory group in its work, the authority, in consultation with the cochairs of the work group, shall select an entity to conduct the activities set forth in this subsection. The health care authority may contract directly with a public agency as defined under RCW 39.34.020 through an interagency agreement. If the health care authority determines, in consultation with the cochairs of the work group, that a public agency is not appropriate for conducting these analyses, the health care authority may select another entity through competitive procurements as necessary in accordance with chapter 39.26 RCW. The activities that entities selected under this subsection must complete include:

(i) Following a statewide stakeholder engagement process, a behavioral health landscape analysis for families in the perinatal phase, children, youth transitioning into adulthood, and the caregivers of those children and youth outlining:

(A) The current service continuum including the cost of care, delivery service models, and state oversight for behavioral health services covered by medicaid and private insurance;

(B) Current gaps in the service continuum, areas without access to services, workforce demand, and capacity shortages;

(C) Barriers to accessing preventative services and necessary care including inequities in service access, affordability, cultural responsiveness, linguistic responsiveness, gender responsiveness, and developmentally appropriate service availability; and

(D) Incorporated information provided by the 988 crisis hotline crisis response improvement strategy committee as required under RCW 71.24.893;

(ii) A gap analysis estimating the prevalence of needs for Washington state behavioral health services for families in the perinatal phase, children, youth transitioning into adulthood, and the caregivers of those children and youth served by medicaid or private insurance, including:

(A) The estimated number of families in the perinatal phase, children, youth transitioning into adulthood, and the caregivers of those children and youth who need clinical behavioral health services or could benefit from preventive or early intervention services on an annual basis;

(B) The estimated number of expectant parents and caregivers in need of behavioral health services;

(C) A collection and analysis of disaggregated data to better understand regional, economic, linguistic, gender, and racial gaps in access to behavioral health services;

(D) The estimated costs of providing services that include a range of behavioral health supports that will meet the projected needs of the population; and

(E) Recommendations on the distribution of resources to deliver needed services to families in the perinatal phase, children, youth transitioning into adulthood, and the caregivers of those children and youth across multiple settings; and

(iii) An analysis of peer-reviewed publications, evidence-based practices, and other existing practices and guidelines with preferred outcomes regarding the delivery of behavioral health services to families in the perinatal phase, children, youth transitioning into adulthood, and the caregivers of those children and youth across multiple settings including:

(A) Approaches to increasing access and quality of care for underserved populations;

(B) Approaches to providing developmentally appropriate care;

(C) The integration of culturally responsive care with effective clinical care practices and guidelines;

(D) Strategies to maximize federal reinvestment and resources from any alternative funding sources; and

(E) Workforce development strategies that ensure a sustained, representative, and diverse workforce.

(e) The strategic plan advisory group shall prioritize its work as follows:

(i) Hold its first meeting by September 1, 2022;

(ii) Select third-party entities described under (d) of this subsection by December 31, 2022;

(iii) Provide a progress report on the development of the strategic plan, including a timeline of future strategic plan development steps, to be included in the work group's 2022 annual report required under subsection (10) of this section;

(iv) Provide a progress report on the development of the strategic plan, including discussion of the work group recommendations that align with the strategic plan development thus far, to be included in the work group's 2023 annual report required under subsection (10) of this section;

(v) Provide a draft strategic plan, along with any materials produced by entities selected under (d) of this subsection, to the work group by October 1, 2024. The draft strategic plan must include an incremental action plan outlining the action steps needed to achieve the vision provided by the draft strategic plan, clear prioritization criteria, and a transparent evaluation plan. The action plan may include further research questions, a proposed budget to continue the strategic planning work or implementation process, and a process for reviewing and updating the strategic plan.

(f) The work group shall discuss the draft strategic plan and action plan after they are submitted and adopt a final strategic plan that must be submitted to the governor and the appropriate committees of the legislature at the same time as the work group's 2024 annual report required under subsection (10) of this section.

(7)(a) Staff support for the work group, including administration of work group meetings and preparation of full work group recommendations and reports required under this section, must be provided by the health care authority.

(b) Additional staff support for legislative members of the work group may be provided by senate committee services and the house of representatives office of program research.

(c) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must provide staff support to the school-based behavioral health and suicide prevention advisory group, including administration of advisory group meetings and the preparation and delivery of advisory group recommendations to the full work group.

~~((7))~~ (8)(a) Legislative members of the work group are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. ~~((Any))~~ Except as provided under (b) of this subsection, any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW. ~~((Advisory group members who are not members of the work group are not entitled to reimbursement.~~

~~(8) The work group shall update the findings and recommendations reported to the legislature by the children's mental health work group in December 2016 pursuant to chapter 96, Laws of 2016. The work group must submit the updated report to the governor and the appropriate committees of the legislature by December 1, 2020.)~~

(b) Members of the children and youth behavioral health work group or an advisory group established under this section with lived experience may receive a stipend of up to \$200 per day if:

(i) The member participates in the meeting virtually or in person, even if only participating for one meeting and not on an ongoing basis; and

(ii) The member does not receive compensation, including paid leave, from the member's employer or contractor for participation in the meeting.

(9) The following definitions apply to this section:

(a) "A member with lived experience" means an individual who has received behavioral health services or whose family member has received behavioral health services; and



(b) "Families in the perinatal phase" means families during the time from pregnancy through one year after birth.

(10) Beginning November 1, 2020, and annually thereafter, the work group shall provide recommendations in alignment with subsection (3) of this section to the governor and the legislature. Beginning November 1, 2025, the work group shall include in its annual report a discussion of how the work group's recommendations align with the final strategic plan described under subsection (6) of this section.

~~((9))~~ (11) This section expires December 30, 2026.

**NEW SECTION. Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the House March 7, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 77

[Substitute House Bill 1941]

### SCHOOL SAFETY DRILLS—ACTIVE SHOOTER SCENARIOS

AN ACT Relating to prohibiting active shooter scenarios for school safety-related drills; and amending RCW 28A.320.125.

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

**Sec. 1.** RCW 28A.320.125 and 2021 c 223 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.

(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.

Passed by the House February 9, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 78

[Substitute House Bill 1955]

### DEPENDENCY PROCEEDINGS—STUDENTS

AN ACT Relating to creating uniformity in education requirements for students who are the subject of a dependency proceeding; amending RCW 28A.150.510, 28A.225.023, 28A.225.330, 28A.225.350, 28A.320.148, 28A.320.192, 28B.117.020, 74.13.550, and 74.13.631; and reenacting and amending RCW 74.13.560.

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

**Sec. 1.** RCW 28A.150.510 and 2017 3rd sp.s. c 6 s 336 are each amended to read as follows:

(1) In order to effectively serve students who are ~~((dependent pursuant to chapter 13.34 RCW))~~ the subject of a dependency proceeding, education records shall be transmitted to the department of children, youth, and families, the appropriate federally recognized Indian tribe, or the state agency responsible for the implementation of the unaccompanied refugee minors program within two

school days after receiving the request from the department, federally recognized Indian tribe, or state agency provided that the department, the appropriate federally recognized Indian tribe, or the state agency responsible for the implementation of the unaccompanied refugee minors program certifies that it will not disclose to any other party the education records without prior written consent of the parent or student unless authorized to disclose the records under state law. The department of children, youth, and families is authorized to disclose education records it obtains pursuant to this section to a foster parent, guardian, or other entity authorized by the department to provide residential care to the student. The department is also authorized to disclose educational records it obtains pursuant to this section to those entities with which it has contracted, or with which it is formally collaborating, having responsibility for educational support services and educational outcomes of students who are ~~((dependent))~~ the subject of a dependency proceeding pursuant to chapter 13.34 RCW. The department is encouraged to put in place data-sharing agreements to assure accountability.

~~(2)((a) The K-12 data governance group established under RCW 28A.300.507 shall create a comprehensive needs requirement document detailing the specific information, technical capacity, and any federal and state statutory and regulatory changes needed by school districts, the office of the superintendent of public instruction, the department of children, youth, and families, or the higher education coordinating board or its successor, to enable the provision, on at least a quarterly basis, of:~~

~~(i) Current education records of students who are dependent pursuant to chapter 13.34 RCW to the department of children, youth, and families and, from the department, to those entities with which the department has contracted, or with which it is formally collaborating, having responsibility for educational support services and educational outcomes; and~~

~~(ii) The names and contact information of students who are dependent pursuant to chapter 13.34 RCW and are thirteen years or older to the higher education coordinating board or its successor and the private agency with which it has contracted to perform outreach for the passport to college promise program under chapter 28B.117 RCW or the college bound scholarship program under chapter 28B.118 RCW.~~

~~(b) In complying with (a) of this subsection, the K-12 data governance group shall consult with: Educational support service organizations, with which the department of children, youth, and families contracts or collaborates, having responsibility for educational support services and educational outcomes of dependent students; the passport to college advisory committee; the education support service organizations under contract to perform outreach for the passport to college promise program under chapter 28B.117 RCW; the department of children, youth, and families; the office of the attorney general; the higher education coordinating board or its successor; and the office of the administrator for the courts)) For the purposes of this section, "students who are the subject of a dependency proceeding" means a child or youth who is located in Washington state, and who is:~~

~~(a) The subject of a shelter care or dependency order issued pursuant to chapter 13.34 RCW or an equivalent order of a tribal court of a federally recognized Indian tribe; or~~

(b) Eligible for benefits under the federal foster care system as defined in RCW 28B.117.020.

**Sec. 2.** RCW 28A.225.023 and 2013 c 182 s 9 are each amended to read as follows:

(1) A school district representative or school employee shall review unexpected or excessive absences with ~~((a youth))~~ students who ~~((is dependent pursuant to chapter 13.34 RCW))~~ are the subject of a dependency proceeding and adults involved with ~~((that youth))~~ the students, to include the ~~((youth's caseworker))~~ students' caseworkers, educational ~~((liaison, attorney))~~ liaisons, attorneys if ~~((one is))~~ appointed, ~~((parent))~~ parents or legal guardians, and foster parents or the ~~((person))~~ persons providing placement for the ~~((youth))~~ students. The purpose of the review is to determine the cause of the absences, taking into account: Unplanned school transitions, periods of running from care, inpatient treatment, incarceration, school adjustment, educational gaps, psychosocial issues, and unavoidable appointments during the school day. A school district representative or a school employee must proactively support the ~~((youth's))~~ students' school work so the student does not fall behind and to avoid suspension or expulsion based on truancy.

(2) For the purposes of this section, "students who are the subject of a dependency proceeding" has the same meaning as in RCW 28A.150.510.

**Sec. 3.** RCW 28A.225.330 and 2021 c 120 s 2 are each amended to read as follows:

(1) When enrolling a student who has attended school in another school district, the school enrolling the student may request the parent and the student to briefly indicate in writing whether or not the student has:

- (a) Any history of placement in special educational programs;
- (b) Any past, current, or pending disciplinary action;
- (c) Any history of violent behavior, or behavior listed in RCW 13.04.155;
- (d) Any unpaid fines or fees imposed by other schools; and
- (e) Any health conditions affecting the student's educational needs.

(2) The school enrolling the student shall request the student's permanent record including records of disciplinary action, history of violent behavior or behavior listed in RCW 13.04.155, attendance, immunization records, and academic performance from the school the student previously attended.

(3) Upon request, school districts shall furnish a set of unofficial educational records to a parent or guardian of a student who is transferring out of state and who meets the definition of a child of a military family in transition under Article II of RCW 28A.705.010. School districts may charge the parent or guardian the actual cost of providing the copies of the records.

(4) If information is requested under subsection (2) of this section, the information shall be transmitted within two school days after receiving the request and the records shall be sent as soon as possible. The records of a student who meets the definition of a child of a military family in transition under Article II of RCW 28A.705.010 shall be sent within ~~((ten))~~ 10 days after receiving the request. Any school district or district employee who releases the information in compliance with this section is immune from civil liability for damages unless it is shown that the school district employee acted with gross negligence or in bad faith. The professional educator standards board shall

provide by rule for the discipline under chapter 28A.410 RCW of a school principal or other chief administrator of a public school building who fails to make a good faith effort to assure compliance with this subsection.

(5) Any school district or district employee who releases the information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith.

(6)~~(a)~~ A school may not prevent ~~((a student))~~ students who ~~((is dependent))~~ are the subject of a dependency proceeding pursuant to chapter 13.34 RCW from enrolling if there is incomplete information as enumerated in subsection (1) of this section during the ~~((ten))~~ 10 business days that the department of ~~((social and health services))~~ children, youth, and families has to obtain that information under RCW 74.13.631. ~~((In addition, upon))~~

(b) If the student who is the subject of a dependency proceeding is subject to an order in a federally recognized tribal court that is the equivalent of a shelter care or dependency order pursuant to chapter 13.34 RCW, or the student is eligible for benefits under the federal foster care system as defined in RCW 28B.117.020, the school may not prevent the student from enrolling if there is incomplete information as enumerated in subsection (1) of this section during the 10 business days from the date the equivalent order is entered or from a date determined by the state agency responsible for implementing the unaccompanied refugee minors program.

(c) Upon enrollment of a student who is ((dependent pursuant to chapter 13.34 RCW)) the subject of a dependency proceeding, the school district must make reasonable efforts to obtain and assess that child's educational history in order to meet the child's unique needs within two business days.

(7) For the purposes of this section, "students who are the subject of a dependency proceeding" has the same meaning as in RCW 28A.150.510.

**Sec. 4.** RCW 28A.225.350 and 2018 c 139 s 2 are each amended to read as follows:

(1)(a) The protocols required by RCW 74.13.560 for making best interest determinations for students ((in out of home care)) who are the subject of a dependency proceeding pursuant to chapter 13.34 RCW must comply with the provisions of this section.

(b) The requirements of this section, and the development protocols described in RCW 74.13.560 for making best interest determinations for students who are the subject of a dependency proceeding pursuant to chapter 13.34 RCW, may also be applied to students who are the subject of a federally recognized tribal court shelter care or dependency order that is the equivalent of a shelter care or dependency order issued pursuant to chapter 13.34 RCW, and students who are eligible for benefits under the federal foster care system as defined in RCW 28B.117.020.

(2)(a) Best interest determinations should be made as quickly as possible in order to prevent educational discontinuity for the student.

(b) When making best interest determinations, every effort should be made to gather meaningful input from relevant and appropriate persons on their perspectives regarding which school the student should attend ~~((during his or her time in out of home care))~~ while the subject of a dependency proceeding,

consistent with the student's case plan. Relevant and appropriate persons include:

(i) Representatives of the department of children, youth, and families for students who are the subject of a dependency proceeding pursuant to chapter 13.34 RCW, or representatives of other applicable child welfare agencies;

(ii) Representatives of the school of origin, such as a teacher, counselor, coach, or other meaningful person in the student's life;

(iii) Biological parents;

(iv) Foster parents;

(v) Educational liaisons identified under RCW 13.34.045;

(vi) The student's relatives; and

(vii) Depending on ~~((his or her))~~ the student's age, the student.

(3) In accordance with RCW 74.13.550, whenever practical and in their best interest, students ~~((placed into out-of-home care))~~ who are the subject of a dependency proceeding must remain enrolled in ~~((the school that they were attending at the time they entered out-of-home care))~~ their school of origin.

(4) Student-centered factors must be used to determine what is in a student's best interest. In order to make a well-informed best interest determination, a variety of student-centered factors should be considered, including:

(a) How long is the student's current ~~((out-of-home))~~ care placement expected to last?

(b) What is the student's permanency plan and how does it relate to school stability?

(c) How many schools has the student attended in the current year?

(d) How many schools has the student attended over the past few years?

(e) Considering the impacts of past transfers, how may transferring to a new school impact the student academically, emotionally, physically, and socially?

(f) What are the immediate and long-term educational plans of, and for, the student?

(g) How strong is the student academically?

(h) If the student has special needs, what impact will transferring to a new school have on the student's progress and services?

(i) To what extent are the programs and activities at the potential new school comparable to, or more appropriate than, those at the school of origin?

(j) Does one school have programs and activities that address the unique needs or interests of the student that the other school does not have?

(k) Which school does the student prefer?

(l) How deep are the ~~((child's))~~ student's ties to ~~((his or her))~~ the student's school of origin?

(m) Would the timing of the school transfer coincide with a logical juncture, such as after testing, after an event that is significant to the student, or at the end of the school year?

(n) How would changing schools affect the student's ability to earn full academic credit, participate in sports or other extracurricular activities, proceed to the next grade, or graduate on time?

(o) How would the commute to the school under consideration impact the student, in terms of distance, mode of transportation, and travel time?

(p) How anxious is the student about having been removed from the home or about any upcoming moves?

(q) What school does the student's sibling attend?

(r) Are there safety issues to consider?

(5) The student must remain in ~~((his or her))~~ the student's school of origin while a best interest determination is made and while disputes are resolved in order to minimize disruption and reduce the number of school transfers.

(6) School districts are encouraged to use any:

(a) Best interest determination guide developed by the office of the superintendent of public instruction during the discussion about the advantages and disadvantages of keeping the student in the school of origin or transferring the student to a new school; and

(b) Dispute resolution process developed by the office of the superintendent of public instruction when there is a disagreement about school placement, ~~((the provision of educational services))~~ a best interest determination, or a dispute between agencies.

(7) The special education services of a student must not be interrupted by a transfer to a new school.

(8)(a) If the student's care placement changes to an area served by another school district, and it is determined to be in the best interest of the student to remain in the school of origin, the school district of origin and the school district in which the student is living shall agree upon a method to apportion the responsibility and costs for providing the student with transportation to and from the school of origin. If the school districts are unable to agree upon an apportionment method, the responsibility and costs for transportation shall be shared equally between the districts.

(b) In accordance with this subsection, the department of children, youth, and families will reimburse school districts for half of all excess transportation costs for students under the placement and care authority of the department of children, youth, and families.

(9) For the purposes of this section, "~~((out of home care))~~ students who are the subject of a dependency proceeding" has the same meaning as in RCW ((13.34.030)) 28A.150.510, and "school of origin" means the school in which a child is enrolled at the time of placement in foster care. If a child's foster care placement changes, the school of origin must be considered the school in which the child is enrolled at the time of the placement change.

**Sec. 5.** RCW 28A.320.148 and 2021 c 95 s 2 are each amended to read as follows:

(1) ~~((Each))~~ For the purpose of addressing education barriers for students who are the subject of a dependency proceeding, each school district must ~~((designate))~~: (a) Designate a foster care liaison to facilitate district compliance with state and federal laws related to students who are ~~((dependent pursuant to chapter 13.34 RCW))~~ the subject of a dependency proceeding; and ~~((to))~~ (b) collaborate with the department of children, youth, and families ~~((to address educational barriers for these students))~~, the appropriate federally recognized Indian tribe, or the state agency responsible for the implementation of the unaccompanied refugee minors program. The role and responsibilities of a foster care liaison may include:

(a) Coordinating ~~((with the department of children, youth, and families on))~~ the implementation of state and federal laws related to students who are



~~((dependent pursuant to chapter 13.34 RCW))~~ the subject of a dependency proceeding;

(b) Coordinating with foster care education program staff at the office of the superintendent of public instruction;

(c) Attending training and professional development opportunities to improve school district implementation efforts;

(d) Serving as the primary contact person for representatives of the department of children, youth, and families;

(e) Leading and documenting the development of a process for making best interest determinations in accordance with RCW 28A.225.350;

(f) Facilitating immediate enrollment in accordance with RCW 28A.225.330;

(g) Facilitating the transfer of records in accordance with RCW 28A.150.510 and 28A.225.330;

(h) Facilitating data sharing with child welfare agencies consistent with state and federal privacy laws and rules;

(i) Developing and coordinating local transportation procedures;

(j) Managing best interest determination and transportation cost disputes according to the best practices developed by the office of the superintendent of public instruction;

(k) Ensuring that students who are ~~((dependent pursuant to chapter 13.34 RCW))~~ the subject of a dependency proceeding are enrolled in and regularly attending school, consistent with RCW 28A.225.023; and

(l) Providing professional development and training to school staff on state and federal laws related to students who are ~~((dependent pursuant to chapter 13.34 RCW))~~ the subject of a dependency proceeding and their educational needs, as needed.

(2) Each K-12 public school in the state must establish a building point of contact in each elementary school, middle school, and high school. These points of contact must be appointed by the principal of the designated school, in consultation with the district foster care liaison, and are responsible for coordinating services and resources for students in foster care as outlined in subsection (1) of this section.

(3) The district foster care liaison is responsible for training building points of contact.

(4) The office of the superintendent of public instruction shall make available best practices for choosing and training building points of contact to each school district.

(5) For the purposes of this section, "students who are the subject of a dependency proceeding" has the same meaning as in RCW 28A.150.510.

**Sec. 6.** RCW 28A.320.192 and 2021 c 164 s 4 are each amended to read as follows:

(1) ~~((In order to eliminate barriers and facilitate))~~ School districts must incorporate the procedures in this section for the purpose of eliminating barriers and facilitating the on-time grade level progression and graduation of students who are homeless as described in RCW 28A.300.542, ~~((dependent pursuant to chapter 13.34 RCW))~~ students who are the subject of a dependency proceeding, at-risk youth or children in need of services pursuant to chapter 13.32A RCW, ~~((or))~~ and students who are in or have been released from an institutional

education facility(~~(school districts must incorporate the procedures in this section)~~)).

(2) School districts must waive specific courses required for graduation if similar coursework has been satisfactorily completed in another school district or must provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school district, the receiving school district must provide an alternative means of acquiring required coursework so that graduation may occur on time.

(3) School districts must consolidate partial credit, unresolved, or incomplete coursework and provide opportunities for credit accrual in a manner that eliminates academic and nonacademic barriers for the student.

(4) For students in or released from an institutional education facility, school districts must provide students with access to world language proficiency tests, American sign language proficiency tests, and general education development tests. Access to the tests may not be conditioned or otherwise dependent upon a student's request. School districts must award at least one high school credit to students upon meeting the standard established by the state board of education under subsection (9) of this section on a world language or American sign language proficiency test or a general education development test. Additional credits may be awarded by the district if a student has completed a course or courses of study to prepare for the test. If the school district has a local policy for awarding mastery-based credit on state or local assessments, the school district must apply this policy for students in or released from an institutional education facility.

(5) For students who have been unable to complete an academic course and receive full credit due to withdrawal or transfer, school districts must grant partial credit for coursework completed before the date of withdrawal or transfer and the receiving school must accept those credits, apply them to the student's academic progress or graduation or both, and allow the student to earn credits regardless of the student's date of enrollment in the receiving school.

(6) Should a student who is transferring at the beginning or during the student's junior or senior year be ineligible to graduate from the receiving school district after all alternatives have been considered, the sending and receiving districts must ensure the receipt of a diploma from the sending district if the student meets the graduation requirements of the sending district.

(7) The superintendent of public instruction shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural obligations of school districts to implement these provisions.

(8) Should a student have enrolled in three or more school districts as a high school student and have met state requirements but be ineligible to graduate from the receiving school district after all alternatives have been considered, the receiving school district must waive its local requirements and ensure the receipt of a diploma.

(9) The state board of education, in consultation with the office of the superintendent of public instruction, shall identify the scores students must achieve in order to meet the standard on world language or American sign language proficiency tests and general education development tests in accordance with subsection (4) of this section.

(10) For the purposes of this section, "institutional education facility" and "school district" have the same meaning as in RCW 28A.190.005.

(11) For the purposes of this section, "students who are the subject of a dependency proceeding" has the same meaning as in RCW 28A.150.510.

**Sec. 7.** RCW 28B.117.020 and 2019 c 406 s 43 are each amended to read as follows:

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

(1) "Apprentice" means a person enrolled in a state-approved, federally registered, or reciprocally recognized apprenticeship program.

(2) "Apprenticeship" means an apprenticeship training program approved or recognized by the state apprenticeship council or similar federal entity.

(3) "Cost of attendance" means the cost associated with attending a particular institution of higher education as determined by the office, including but not limited to tuition, fees, room, board, books, personal expenses, and transportation, plus the cost of reasonable additional expenses incurred by an eligible student and approved by a financial aid administrator at the student's school of attendance.

(4) "Federal foster care system" means the foster care program under the federal unaccompanied refugee minors program, Title 8 U.S.C. Sec. 1522 of the immigration and nationality act of 1965, as amended.

(5) "Financial need" means the difference between a student's cost of attendance and the student's total family contribution as determined by the method prescribed by the United States department of education.

(6) "Homeless" or "homelessness" means without a fixed, regular, and adequate nighttime residence as set forth in the federal McKinney-Vento homeless assistance act, 42 U.S.C. Sec. 11301 et seq.

(7) "Independent college or university" means a private, nonprofit institution of higher education, open to residents of the state, providing programs of education beyond the high school level leading to at least the baccalaureate degree, and accredited by the Northwest association of schools and colleges, and other institutions as may be developed that are approved by the student achievement council as meeting equivalent standards as those institutions accredited under this section.

(8) "Institution of higher education" means any institution eligible to and participating in the Washington college grant program.

(9) "Occupational-specific costs" means the costs associated with entering an apprenticeship or preapprenticeship, including but not limited to fees, tuition for classes, work clothes, rain gear, boots, occupation-specific tools.

(10) "Office" means the office of student financial assistance.

(11) "Preapprenticeship" means an apprenticeship preparation program recognized by the state apprenticeship council and as defined in RCW 28C.18.162.

(12) "Program" means the passport to careers program created in this chapter.

(13) "State foster care system" means out-of-home care pursuant to a dependency and includes the placement of dependents from other states who are placed in Washington pursuant to orders issued under the interstate compact on the placement of children, chapter 26.34 RCW.

(14) "Tribal court" has the same meaning as defined in RCW 13.38.040.

(15) "Tribal foster care system" means an out-of-home placement under a dependency order from a tribal court.

(16) "Unaccompanied" means a youth or young adult experiencing homelessness while not in the physical custody of a parent or guardian.

**Sec. 8.** RCW 74.13.550 and 2003 c 112 s 2 are each amended to read as follows:

(1) It is the policy of the state of Washington that, whenever practical and in the best interest of the child, children (~~(placed into foster care)~~) who are the subject of a dependency proceeding shall remain enrolled in ((the schools they were attending at the time they entered foster care)) their schools of origin.

(2) For the purposes of this section, "children who are the subject of a dependency proceeding" means a child or youth who is located in Washington state and the subject of a shelter care or dependency order pursuant to chapter 13.34 RCW, and "school of origin" means the school in which a child is enrolled at the time of placement in foster care. If a child's foster care placement changes, the school of origin must be considered the school in which the child is enrolled at the time of the placement change.

**Sec. 9.** RCW 74.13.560 and 2018 c 284 s 59 and 2018 c 139 s 4 are each reenacted and amended to read as follows:

(1) The administrative regions of the department shall, in collaboration with school districts within their region as required by RCW 28A.225.360, develop protocols specifying specific strategies for communication, coordination, and collaboration regarding the status and progress of children in out-of-home care placed in the region, and children in the region who are the subject of a dependency proceeding. The purpose of the protocols is to maximize the educational continuity and achievement for the children (~~(in out-of-home care)~~). The protocols must include methods to assure effective sharing of information, consistent with RCW 28A.225.330.

(2) The protocols required by this section must also include protocols for making best interest determinations for students in out-of-home care, and children who are the subject of a dependency proceeding that comply with RCW 28A.225.350. The protocols for making best interest determinations (~~for students in out-of-home care~~) must be implemented before changing the school placement of a student.

(3) For the purposes of this section, "children who are the subject of a dependency proceeding" means a child or youth who is located in Washington state and the subject of a shelter care or dependency order pursuant to chapter 13.34 RCW, and "out-of-home care" has the same meaning as in RCW 13.34.030.

**Sec. 10.** RCW 74.13.631 and 2018 c 139 s 5 are each amended to read as follows:

(1) Consistent with the provisions for making best interest determinations established in RCW 28A.225.350 and 74.13.560, the department shall provide (~~(youth residing in out-of-home care)~~) students who are the subject of a dependency proceeding with the opportunity to remain enrolled in ((the school he or she was attending prior to out-of-home placement)) their school of origin, unless the safety of the (~~(youth)~~) student is jeopardized, or a relative or other

suitable person placement approved by the department is secured for the ~~((youth)) student~~, or it is determined not to be in the ~~((youth's)) student's~~ best interest ~~((to remain enrolled in the school he or she was attending prior to out-of-home placement))~~. If the parties in the dependency case disagree regarding which school the ~~((youth)) student~~ should be enrolled in, the ~~((youth)) student~~ may remain enrolled in the school of origin until the disagreement is resolved in court, unless the department determines that the ~~((youth)) student~~ is in immediate danger by remaining enrolled in the school of origin.

(2) Unless otherwise directed by the court, the educational responsibilities of the department for preschool and school-aged ((youth)) students residing in out-of-home care are the following:

(a) To collaboratively discuss and document school placement options and plan necessary school transfers during the family team decision-making meeting;

(b) To notify the receiving school and the school of origin that a youth residing in foster care is transferring schools;

(c) To request and secure missing academic records or medical records required for school enrollment within ten business days;

(d) To document the request and receipt of academic records in the individual service and safety plan;

(e) To pay any unpaid fees or fines due by the ~~((youth)) student~~ to the school or school district;

(f) To notify all legal parties when a school disruption occurs; and

(g) To document factors that contributed to any school disruptions.

(3) The requirements of the department in subsections (1) and (2) of this section apply also for children who are the subject of a dependency proceeding.

(4) For the purposes of this section, "students who are the subject of a dependency proceeding" means a child or youth who is located in Washington state and the subject of a shelter care or dependency order pursuant to chapter 13.34 RCW.

Passed by the House February 8, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 79

[House Bill 1974]

### STATE BOARD OF EDUCATION AND EDUCATIONAL SERVICE DISTRICT ELECTIONS— MOVE TO SCHOOL DIRECTORS' ASSOCIATION

AN ACT Relating to moving state board of education and educational service district elections to the Washington state school directors' association; and amending RCW 28A.305.021, 28A.345.030, 28A.310.030, 28A.310.050, 28A.310.060, 28A.310.080, 28A.310.090, and 28A.310.100.

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

**Sec. 1.** RCW 28A.305.021 and 2005 c 497 s 102 are each amended to read as follows:

The election of state board of education members by school directors and private school board members shall be conducted by the ~~((office of the~~

~~superintendent of public instruction~~) Washington state school directors' association for the members of the state board who begin serving on January 1, 2006, and thereafter.

(1) The ~~((superintendent))~~ Washington state school directors' association shall adopt ~~((rules))~~ procedures for the conduct of elections, which shall include, but need not be limited to: The definition of the eastern Washington and western Washington geographic regions of the state for the purpose of determining board member positions; the weighting of votes cast by the number of students in the school director's school district or board member's private school; election and dispute resolution procedures; the process for filling vacancies; and election timelines. The election timeline shall include calling for elections no later than the ~~((twenty-fifth))~~ 25th of August, and notification of the election results no later than the ~~((fifteenth))~~ 15th of December.

(2) State board member positions one and two shall be filled by residents of the eastern Washington region and positions three, four, and five shall be filled by residents of the western Washington region.

(3) A school director shall be eligible to vote only for a candidate for each position in the geographic region within which the school director resides.

(4) Initial terms of the individuals elected by the school directors shall be for terms of two to four years in length as follows: Two members, one from eastern Washington and one from western Washington, shall be elected to two-year terms; two members, one from eastern Washington and one from western Washington, shall be elected to four-year terms; and one member from western Washington shall be elected to a three-year term. The term of the private school member shall be two years. All terms shall expire on the second Monday of January of the applicable year.

(5) No person employed in any public or private school, college, university, or other educational institution or any educational service district superintendent's office or in the office of the superintendent of public instruction is eligible for membership on the state board of education. No member of a board of directors of a local school district or private school may continue to serve in that capacity after having been elected to the state board.

**Sec. 2.** RCW 28A.345.030 and 1991 c 66 s 1 are each amended to read as follows:

The school directors' association shall have the power:

(1) To prepare and adopt, amend, and repeal a constitution ~~((and)),~~ rules and regulations, and bylaws for its own organization including county or regional units ~~((and)),~~ for its government and guidance, for the election of state board of education members, and for educational service district elections; PROVIDED, That action taken with respect thereto is consistent with the provisions of this chapter or with other provisions of law;

(2) To arrange for and call such meetings of the association or of the officers and committees thereof as are deemed essential to the performance of its duties;

(3) To provide for the compensation of members of the board of directors in accordance with RCW 43.03.240, and for payment of travel and subsistence expenses incurred by members and/or officers of the association and association staff while engaged in the performance of duties under direction of the association in the manner provided by RCW 28A.320.050;

(4) To employ an executive director and other staff and pay such employees out of the funds of the association;

(5) To conduct studies and disseminate information therefrom relative to increased efficiency in local school board administration;

(6) To buy, lease, sell, or exchange such personal and real property as necessary for the efficient operation of the association and to borrow money, issue deeds of trust or other evidence of indebtedness, or enter into contracts for the purchase, lease, remodeling, or equipping of office facilities or the acquisition of sites for such facilities;

(7) To purchase liability insurance for school directors, which insurance may indemnify said directors against any or all liabilities for personal or bodily injuries and property damage arising from their acts or omissions while performing or while in good faith purporting to perform their official duties as school directors;

(8) To provide advice and assistance to local boards to promote their primary duty of representing the public interest;

(9) Upon request by a local school district board(s) of directors, to make available on a cost reimbursable contract basis (a) specialized services, (b) research information, and (c) consultants to advise and assist district board(s) in particular problem areas: PROVIDED, That such services, information, and consultants are not already available from other state agencies, educational service districts, or from the information and research services authorized by RCW 28A.320.110.

**Sec. 3.** RCW 28A.310.030 and 2006 c 263 s 603 are each amended to read as follows:

Except as otherwise provided in this chapter, in each educational service district there shall be an educational service district board consisting of seven members elected by the school directors of the educational service district, one from each of seven educational service district board-member districts. Board-member districts in districts reorganized under RCW 28A.310.020, or as provided for in RCW 28A.310.120 and under this section, shall be initially determined by the state board of education. If a reorganization pursuant to RCW 28A.310.020 places the residence of a board member into another or newly created educational service district, such member shall serve on the board of the educational service district of residence and at the next election called by the ~~((superintendent of public instruction))~~ executive director of the Washington state school directors' association pursuant to RCW 28A.310.080 a new seven member board shall be elected. If the redrawing of board-member district boundaries pursuant to this chapter shall cause the resident board-member district of two or more board members to coincide, such board members shall continue to serve on the board and at the next election called by the ~~((superintendent of public instruction))~~ executive director of the Washington state school directors' association a new board shall be elected. The board-member districts shall be arranged so far as practicable on a basis of equal population, with consideration being given existing board members of existing educational service district boards. Each educational service district board member shall be elected by the school directors of each school district within the educational service district. Beginning in 1971 and every ten years thereafter, educational service district boards shall review and, if necessary, shall change

the boundaries of board-member districts so as to provide so far as practicable equal representation according to population of such board-member districts and to conform to school district boundary changes: PROVIDED, That all board-member district boundaries, to the extent necessary to conform with this chapter, shall be immediately redrawn for the purposes of the next election called by the ~~((superintendent of public instruction))~~ executive director of the Washington state school directors' association following any reorganization pursuant to this chapter. Such district board, if failing to make the necessary changes prior to June 1st of the appropriate year, shall refer for settlement questions on board-member district boundaries to the office of the superintendent of public instruction, which, after a public hearing, shall decide such questions.

**Sec. 4.** RCW 28A.310.050 and 2006 c 263 s 604 are each amended to read as follows:

Any educational service district board may elect by resolution of the board to increase the board member size to nine board members. In such case positions number eight and nine shall be filled at the next election called by the ~~((superintendent of public instruction))~~ executive director of the Washington state school directors' association, position numbered eight to be for a term of two years, position numbered nine to be for a term of four years. Thereafter the terms for such positions shall be for four years.

**Sec. 5.** RCW 28A.310.060 and 2006 c 263 s 605 are each amended to read as follows:

The term of every educational service district board member shall begin on the second Monday in January next following the election at which he or she was elected: PROVIDED, That a person elected to less than a full term pursuant to this section shall take office as soon as the election returns have been certified and he or she has qualified. In the event of a vacancy in the board from any cause, such vacancy shall be filled by appointment of a person from the same board-member district by the educational service district board. In the event that there are more than three vacancies in a seven-member board or four vacancies in a nine-member board, the ~~((superintendent of public instruction))~~ Washington state school directors' association president shall fill by appointment sufficient vacancies so that there shall be a quorum of the board serving. Each appointed board member shall serve until his or her successor has been elected at the next election called by the ~~((superintendent of public instruction))~~ executive director of the Washington state school directors' association and has qualified.

**Sec. 6.** RCW 28A.310.080 and 2007 c 460 s 1 are each amended to read as follows:

Not later than the ~~((twenty-fifth))~~ 25th day of August of every odd-numbered year, the ~~((superintendent of public instruction))~~ executive director of the Washington state school directors' association shall call an election to be held in each educational service district within which resides a member of the board of the educational service district whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in such educational service district. Such notice shall include instructions and ~~((rules))~~ procedures established by the ~~((superintendent of public instruction))~~ Washington state school directors' association for the conduct of the election.



**Sec. 7.** RCW 28A.310.090 and 2006 c 263 s 606 are each amended to read as follows:

Candidates for membership on an educational service district board shall file declarations of candidacy with the ~~((superintendent of public instruction))~~ Washington state school directors' association on forms prepared by the ~~((superintendent))~~ association. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, nor later than the ~~((sixteenth))~~ 16th day of September. The ~~((superintendent))~~ association may not accept any declaration of candidacy that is not on file in ~~((his or her))~~ its office or is not postmarked before the ~~((seventeenth))~~ 17th day of September.

**Sec. 8.** RCW 28A.310.100 and 2006 c 263 s 607 are each amended to read as follows:

Each member of an educational service district board shall be elected by a majority of the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the ~~((superintendent of public instruction))~~ Washington state school directors' association and no votes shall be accepted for counting if postmarked after the ~~((sixteenth))~~ 16th day of October or if not postmarked or the postmark is not legible, if received by mail after the ~~((twenty-first))~~ 21st day of October following the call of the election. The ~~((superintendent of public instruction))~~ executive director of the Washington state school directors' association and an election board comprised of three persons appointed by the ~~((superintendent))~~ association shall count and tally the votes not later than the ~~((twenty-fifth))~~ 25th day of October in the following manner: Each vote cast by a school director shall be accorded as one vote. If no candidate receives a majority of the votes cast, then, not later than the first day of November, the ~~((superintendent of public instruction))~~ executive director of the Washington state school directors' association shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of votes cast. No vote cast at such second election shall be received for counting if postmarked after the ~~((sixteenth))~~ 16th day of November or if not postmarked or the postmark is not legible, if received by mail after the ~~((twenty-first))~~ 21st day of November and the votes shall be counted as hereinabove provided on the ~~((twenty-fifth))~~ 25th day of November. The candidate receiving a majority of votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the ~~((superintendent of public instruction))~~ executive director of the Washington state school directors' association. Within ~~((ten))~~ 10 days following the count of votes in an election at which a member of an educational service district board is elected, the ~~((superintendent of public instruction))~~ executive director of the Washington state school directors' association shall certify to the county auditor of the headquarters county of the educational service district the name or names of the persons elected to be members of the educational service district board.

Passed by the House February 10, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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**CHAPTER 80**

[Engrossed Substitute House Bill 2037]

**PEACE OFFICERS—USE OF FORCE**

AN ACT Relating to modifying the standard for use of force by peace officers, but only with respect to providing that physical force may be used to the extent necessary, clarifying that deadly force may be used in the face of an immediate threat, clarifying that physical force may be used to protect against a criminal offense when there is probable cause that a person has committed or is committing the offense, authorizing the use of physical force to prevent a person from fleeing a temporary investigative detention, authorizing the use of physical force to take a person into custody when authorized or directed by statute, providing that the standard does not permit violations to the United States Constitution or state Constitution, and defining deadly force, physical force, necessary, and totality of the circumstances; amending RCW 10.120.010 and 10.120.020; creating a new section; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** (1) In 2021, the legislature passed Engrossed Second Substitute House Bill No. 1310, codified as chapter 10.120 RCW, with the goal of establishing a uniform statewide standard for use of force by peace officers. Since these provisions were enacted, the complexities and nuances of police practices and applicable laws, both in statute and common law, have posed implementation challenges for some police agencies. For that reason, the legislature hereby intends to provide clarification and guidance to police agencies and the public with the passage of chapter . . . (House Bill No. 1735), Laws of 2022, focusing on behavioral health and other related issues, and the additional changes in this legislation, focusing on enforcement practices as well as clarifying definitions.

(2) The legislature did not enact RCW 10.120.020 with the purpose of preventing or prohibiting peace officers from protecting citizens from danger. To the contrary, the legislature recognizes the importance of enforcing criminal laws and providing safety for all. Therefore, the legislature intends to provide clear authority for peace officers to use physical force to prevent persons from fleeing lawful temporary investigative detentions, also known as *Terry* stops, and to take persons into custody when authorized or directed by state law. Yet this authority is not without limits. Peace officers must exercise reasonable care when determining whether to use physical force and when using any physical force against another person. Peace officers must, when possible and appropriate, use de-escalation tactics before using physical force. Peace officers may only use force to the extent necessary and reasonable under the totality of the circumstances. This high standard of safety reflects national best practices developed and supported by police leaders across the nation. Most importantly, it strikes the appropriate balance between two important interests: The safety of the public and the peace officers who serve to protect us, and the right of the people to be secure in their persons against unreasonable searches and seizures.

**Sec. 2.** RCW 10.120.010 and 2021 c 324 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) "Deadly force" has the same meaning as provided in RCW 9A.16.010.

(2) "Law enforcement agency" includes any "general authority Washington law enforcement agency" and any "limited authority Washington law enforcement agency" as those terms are defined in RCW 10.93.020.

~~((2))~~ (3) "Less lethal alternatives" include, but are not limited to, verbal warnings, de-escalation tactics, conducted energy weapons, devices that deploy oleoresin capsicum, batons, and beanbag rounds.

~~((3))~~ (4) "Necessary" means that, under the totality of the circumstances, a reasonably effective alternative to the use of physical force or deadly force does not appear to exist, and the type and amount of physical force or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others.

(5) "Peace officer" includes any "general authority Washington peace officer," "limited authority Washington peace officer," and "specially commissioned Washington peace officer" as those terms are defined in RCW 10.93.020; however, "peace officer" does not include any corrections officer or other employee of a jail, correctional, or detention facility, but does include any community corrections officer.

(6) "Physical force" means any act reasonably likely to cause physical pain or injury or any other act exerted upon a person's body to compel, control, constrain, or restrain the person's movement. "Physical force" does not include pat-downs, incidental touching, verbal commands, or compliant handcuffing where there is no physical pain or injury.

(7) "Totality of the circumstances" means all facts known to the peace officer leading up to, and at the time of, the use of force, and includes the actions of the person against whom the peace officer uses such force, and the actions of the peace officer.

**Sec. 3.** RCW 10.120.020 and 2021 c 324 s 3 are each amended to read as follows:

(1)~~((a))~~ PHYSICAL FORCE. Except as otherwise provided under this section, a peace officer may use physical force against a person ~~((when))~~ to the extent necessary to:

(a) Protect against ~~((criminal conduct where there is probable cause to make an arrest; effect))~~ a criminal offense when there is probable cause that the person has committed, is committing, or is about to commit the offense;

(b) Effect an arrest; ~~((prevent))~~

(c) Prevent an escape as defined under chapter 9A.76 RCW; ~~((or protect))~~

(d) Prevent a person from fleeing or stop a person who is actively fleeing a lawful temporary investigative detention, provided that the person has been given notice that he or she is being detained and is not free to leave;

(e) Take a person into custody when authorized or directed by statute; or

(f) Protect against an imminent threat of bodily injury to the peace officer, another person, or the person against whom force is being used.

~~((b) A)~~ (2) DEADLY FORCE. Except as otherwise provided under this section, a peace officer may use deadly force against another person only when necessary to protect against an ~~((imminent))~~ immediate threat of serious physical injury or death to the officer or another person. For purposes of this subsection ~~((1)(b))~~:

~~((i))~~ "Imminent" "Immediate threat of serious physical injury or death" means that, based on the totality of the circumstances, it is objectively

reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the peace officer or another person.

~~((ii))~~ "Necessary" means that, under the totality of the circumstances, a reasonably effective alternative to the use of deadly force does not exist, and that the amount of force used was a reasonable and proportional response to the threat posed to the officer and others.

~~((iii))~~ "Totality of the circumstances" means all facts known to the peace officer leading up to and at the time of the use of force, and includes the actions of the person against whom the peace officer uses such force, and the actions of the peace officer.

~~((2))~~ (3) REASONABLE CARE. A peace officer shall use reasonable care when determining whether to use physical force and when using any physical force against another person. To that end, a peace officer shall:

(a) When possible, exhaust available and appropriate de-escalation tactics prior to using any physical force, such as: Creating physical distance by employing tactical repositioning and repositioning as often as necessary to maintain the benefit of time, distance, and cover; when there are multiple officers, designating one officer to communicate in order to avoid competing commands; calling for additional resources such as a crisis intervention team or mental health professional when possible; calling for back-up officers when encountering resistance; taking as much time as necessary, without using physical force or weapons; and leaving the area if there is no threat of imminent harm and no crime has been committed, is being committed, or is about to be committed;

(b) When using physical force, use the least amount of physical force necessary to overcome resistance under the circumstances. This includes a consideration of the characteristics and conditions of a person for the purposes of determining whether to use force against that person and, if force is necessary, determining the appropriate and least amount of force possible to effect a lawful purpose. Such characteristics and conditions may include, for example, whether the person: Is visibly pregnant, or states that they are pregnant; is known to be a minor, objectively appears to be a minor, or states that they are a minor; is known to be a vulnerable adult, or objectively appears to be a vulnerable adult as defined in RCW 74.34.020; displays signs of mental, behavioral, or physical impairments or disabilities; is experiencing perceptual or cognitive impairments typically related to the use of alcohol, narcotics, hallucinogens, or other drugs; is suicidal; has limited English proficiency; or is in the presence of children;

(c) Terminate the use of physical force as soon as the necessity for such force ends;

(d) When possible, use available and appropriate less lethal alternatives before using deadly force; and

(e) Make less lethal alternatives issued to the officer reasonably available for their use.

~~((3))~~ (4) A peace officer may not use any force tactics prohibited by applicable departmental policy, this chapter, or otherwise by law, except to protect his or her life or the life of another person from an imminent threat.

~~((4))~~ (5) Nothing in this section ~~((prevents))~~;

(a) Permits a peace officer to use physical force or deadly force in a manner or under such circumstances that would violate the United States Constitution or state Constitution; or

(b) Prevents a law enforcement agency or political subdivision of this state from adopting policies or standards with additional requirements for de-escalation and greater restrictions on the use of physical and deadly force than provided in this section.

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 immediately.

Passed by the House February 12, 2022.

Passed by the Senate March 4, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 81

[Engrossed Substitute House Bill 2064]

### RESIDENTIAL TENANCIES—FEE IN LIEU OF SECURITY DEPOSIT

AN ACT Relating to security deposits and damages arising out of residential tenancies; and adding a new section to chapter 59.18 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 59.18 RCW to read as follows:

(1) Notwithstanding any other provision of law, if a landlord chooses to waive a security deposit requirement, and a tenant agrees to instead pay a fee in lieu of a security deposit, the landlord shall:

(a) Ensure that the fee in lieu of a security deposit is strictly optional for the tenant, and the tenant may choose to pay a full security deposit rather than a fee in lieu of a security deposit;

(b) Not use a prospective tenant's choice to pay a fee in lieu of a security deposit or a traditional security deposit as a criterion in the determination of whether to approve an application for occupancy;

(c) If choosing to offer the fee in lieu of a security deposit option, offer it to every prospective tenant whose application for occupancy has been approved, without further regard to income, race, gender, disability, source of income, sexual orientation, immigration status, size of household, or credit score;

(d) Allow any tenant that agrees to pay a fee in lieu of a security deposit to opt out of the continuing fee in lieu of a security deposit obligation upon full payment of the security deposit that is listed in the disclosure form pursuant to (f)(ii) of this subsection, and in the event the tenant seeks to pay a security deposit, RCW 59.18.610 shall apply;

(e) Provide a written checklist to the tenant pursuant to RCW 59.18.260; and

(f)(i) Disclose to the tenant in writing:

(A) The terms of any insurance coverage purchased by the landlord for landlord's losses associated with any unpaid amounts due from the tenant to the landlord pursuant to the lease, including but not limited to rent, fees, or unit

damage in excess of wear resulting from ordinary use of the premises, and including the amount of exclusions or caps, if any, on coverage of any amounts due from the tenant to the landlord pursuant to the lease; and

(B) If the insurance provider requires the landlord to first attempt reimbursement from the tenant before filing a claim, that payment of the fee in lieu of a security deposit does not preclude the insurer or the landlord from proceeding against the tenant to recover any unpaid amounts due to the landlord pursuant to the lease and unpaid costs to repair damage to the property for which the tenant is responsible pursuant to the lease but never to include any sums for wear resulting from ordinary use of the premises, together with reasonable attorneys' fees.

(ii) Such disclosures to the tenant must be in substantially the following form:

**YOU MAY PAY A MONTHLY FEE INSTEAD OF A SECURITY DEPOSIT. This fee is not a security deposit and will not be refunded when you move. By paying this fee the landlord is permitting you to move into the housing unit without paying a security deposit. If you do not make all payments or you damage the premises beyond wear resulting from its ordinary use, you may be required by the landlord, an insurance company, or a debt collector to pay the unpaid amounts, including costs of repairing the damages in excess of wear resulting from ordinary use of the premises.**

Washington state law may allow you three different options:

- (1) Paying the full security deposit upon signing the lease.
- (2) If applicable, paying the full security deposit and other move-in fees in up to three installments (see below for more detail).  
*\*\*some local laws provide for a longer period of time.*
- (3) If offered by your landlord, paying a monthly deposit waiver fee instead of a security deposit. If you choose this option, you will not pay a security deposit or last month's rent in advance. Your recurring monthly charge will be \$ \_\_\_\_ IN ADDITION to your monthly rent payment, instead of a security deposit and/or last month's rent in the amount of \$ \_\_\_\_.

**IF YOU CHOOSE TO PAY A MONTHLY DEPOSIT WAIVER FEE INSTEAD OF A SECURITY DEPOSIT, HERE IS THE AMOUNT YOU WILL PAY OVER THE LEASE TERM COMPARED TO THE ONE-TIME DEPOSIT PAYMENT:**

<b>Monthly Nonrefundable Deposit Waiver Fee:</b>	<b>One-time Refundable Security Deposit:</b>
<b>Total cost of monthly fees over lease term:</b>	<b>Deposit: _____</b>

In the event your tenancy terminates and you have not paid rent or other amounts due pursuant to the lease, and you have not paid to repair damages beyond wear resulting from ordinary use of the premises, insurance coverage will pay your landlord up to:

\$ \_\_\_\_\_ for any unpaid rent and fees, and

\$ \_\_\_\_\_ for any damages.

Total coverage: \$ \_\_\_\_\_

**IMPORTANT: IF YOU CHOOSE TO PAY A RECURRING MONTHLY FEE INSTEAD OF A SECURITY DEPOSIT:**

**(1) YOU ARE NOT AN INSURED PARTY UNDER THE INSURANCE POLICY PURCHASED BY THE LANDLORD USING YOUR FEES;**

**(2) YOU ARE NOT A BENEFICIARY TO ANY INSURANCE COVERAGE OR ANY INSURANCE BENEFITS UNDER THE INSURANCE POLICY THAT THE LANDLORD PURCHASES USING YOUR FEES; AND**

**(3) YOU ARE STILL OBLIGATED TO PAY RENT AND ALL PAYMENTS REQUIRED BY THE LEASE, INCLUDING COSTS TO REPAIR DAMAGES BEYOND WEAR RESULTING FROM ORDINARY USE OF THE PREMISES.**

The landlord may seek payment from you before filing any claims with the insurance provider. If you fail to pay the landlord for unpaid rent or other unpaid payments or the costs to repair damages beyond wear resulting from ordinary use of the premises, and an insurer pays the landlord instead, then the insurer may seek reimbursement from you of its payments to the landlord.

If you choose to pay a recurring monthly fee instead of a security deposit, then you are permitted at any time to pay the landlord a security deposit in the amount of \$ \_\_\_\_\_ and stop paying the recurring fee beginning in the month following payment of the security deposit.

(iii) The landlord shall provide the disclosure form to the tenant with any lease and renewal that includes the option to pay a fee instead of a security deposit.

(iv) The office of the attorney general shall make this form available in the 12 most commonly spoken languages in Washington.

(2) Any fee in lieu of a security deposit:

(a) May be entirely or partially nonrefundable, so long as this is disclosed in the lease and separately acknowledged by the tenant;

(b) Does not constitute rent as defined in RCW 59.18.030 and failure to pay may not constitute a cause for eviction under any grounds set forth in RCW 59.18.650, provided that nothing in this section shall preclude the landlord from proceeding in a civil action against, and the landlord shall have the right to proceed against, a tenant to recover unpaid fees;

(c) Must be utilized by the landlord to purchase, from a lawful insurer, coverage for landlord's losses associated with any unpaid amounts due from the tenant to the landlord pursuant to the lease, including but not limited to rent, fees, or unit damage in excess of wear resulting from ordinary use of the

premises, provided that a landlord may not charge a fee that is more than the cost of obtaining and administering such insurance;

(i) In the event the landlord fails to purchase or maintain the insurance provided for in this subsection (2)(c), and if the tenant pays the monthly fee as agreed, the landlord shall credit the total insurance coverage stated in the disclosure to any indebtedness owed by the tenant upon the tenant vacating the unit. However, if through no fault of the landlord, the insurer is suddenly unable to do business in Washington state or is otherwise incapable of fulfilling its obligation, the landlord is not required to credit the insurance coverage stated in the disclosure to any indebtedness owed by the tenant upon the tenant vacating the unit.

(ii) The landlord may not discontinue or alter the terms of insurance during the term of the rental agreement. However, if the landlord decides to discontinue providing the option of paying a fee in lieu of a security deposit, the landlord shall:

(A) Provide 60 days' notice to the tenant prior to end of term or period;

(B) Reduce the deposit by the amount of a tenant's previous fee payments in lieu of the deposit; and

(C) Offer the tenant an installment plan to pay any remaining balance for the security deposit over three months;

(d) May be a recurring monthly fee, or payable upon any schedule and in any amount that the landlord and tenant choose, provided that the first month's fee is a nonrefundable fee as contemplated under RCW 59.18.610; and

(e) Shall not be considered by a court, arbitrator, mediator, or any other dispute resolution adjudicator to be a security deposit or governed by state or local codes governing security deposits.

(3)(a) If an insurer compensates a landlord for a valid claim associated with the landlord's losses pursuant to the lease, including but not limited to rent, fees, or unit damage in excess of wear resulting from ordinary use of the premises:

(i) The landlord may not seek reimbursement of the amounts from the tenant that the insurer paid to the landlord;

(ii) In the event the insurer has subrogation rights, the insurer may seek reimbursement from the tenant but only for the amounts paid to the landlord that were owed by the tenant to the landlord pursuant to the lease, and in no circumstances for amounts, if any, paid to the landlord for repair of wear resulting from ordinary use of the premises; and

(iii) The tenant is entitled to any defenses to payment against the insurer as against the landlord, including any defenses under RCW 59.18.280 or other relevant laws.

(b) If the insurer or any other collector seeks reimbursement from the tenant pursuant to any subrogation rights available to the insurer, with any request for reimbursement, the party must provide the tenant by first-class mail, and email if available, at the last known address as provided by the landlord:

(i) All documentation or other evidence submitted by the landlord for reimbursement by the insurer;

(ii) All documentation or evidence of repair costs that the landlord submitted to the insurer;

(iii) A copy of the settled claim that documents payments made by the insurer to the landlord; and



(iv) Information about how to contact the insurer or collector seeking reimbursement to dispute any claim.

(c) If the tenant fails to pay a request by an insurer or collector for reimbursement under this subsection, the party seeking reimbursement may not commence collection activities against the tenant less than 60 days after sending a request for reimbursement and providing documentation as required under (b) of this subsection. However, if the tenant has disputed the claim, the party seeking reimbursement shall defer any collection activities for an additional 60 days to resolve the dispute.

(d) Except as provided in (e) of this subsection, the landlord may not send an invoice to a tenant or undertake collection activity against the tenant for any amounts after submitting a claim to the insurer if:

(i) The insurer approved the claim;

(ii) The insurer denied the claim because it is not a loss pursuant to the lease; or

(iii) The insurer denied the claim because the landlord submitted insufficient documentation or proof to substantiate the claim.

(e) Notwithstanding (d) of this subsection, the landlord may invoice the tenant and undertake collection activity against a tenant for landlord's losses if the insurer denies the claim because the loss is not covered pursuant to the insurance agreement, including if the value of the loss exceeded the insurance coverage loss limit.

(4) Any judicial action or other collection activity by a landlord to recover losses from a tenant who has paid a fee in lieu of a security deposit and has vacated the dwelling unit, including for unpaid rent, unpaid fees, or the costs of repairing damages in excess of wear resulting from ordinary use of the premises, shall be commenced within one year of the termination of the rental agreement or the tenant's abandonment of the premises and shall otherwise comply with the requirements in RCW 59.18.280 insofar as they relate to documentation of damages, standards for damages beyond wear resulting from ordinary use of the premises, or other standards of proof required to make a claim against a deposit in RCW 59.18.280.

(a) Prior to undertaking collection activity for damages arising out of the tenancy after a tenant who has paid a fee in lieu of a security deposit vacates, the landlord must:

(i) Notify the tenant of the damages or any unpaid rent or fees in a manner consistent with RCW 59.18.280 or other relevant law;

(ii) Forward to the tenant documentation substantiating the damages; and

(iii) For the purposes of allowing ample time for the insurance company to consider the landlord's insurance policy, including coverage and sufficiency of the claims and documentation submitted, including appeals, if any, of the insurer's claims decision, not undertake any collection activity for any debt against the tenant until 60 days after notifying the tenant and providing the documentation pursuant to (a)(i) and (ii) of this subsection, whichever is later.

(b) Where the tenant has opted into paying a fee in lieu of a security deposit in subsection (1) of this section, the landlord shall not undertake collection activities against the tenant unless 60 days have passed after the landlord has submitted a claim to the insurer. However, nothing in this subsection (4)(b) shall

be construed to prohibit the landlord from sending an invoice to the tenant before submitting a claim to the insurer.

(c) This subsection (4) shall not apply where the tenant opts out of, or the landlord discontinues providing the option of, paying a continuing fee in lieu of a security deposit during the tenancy and the tenant provides full payment of a security deposit prior to the termination of the rental agreement or the tenant's abandonment of the premises.

(5) A landlord found in material violation of this act shall be held liable to the tenant in a civil action up to two times the monthly rent of the real property unit at issue, as well as court or arbitration costs and reasonable attorneys' fees.

(6) As used in this section, "collection activity" means attempts to collect any monetary obligation or damages from the tenant, including threats or notice to collect any such amounts through a collection agency or filing of a judicial action, provided that it shall not mean the transmission of an invoice and supporting detail of unpaid rent, unpaid fees or the cost of repairing damages beyond wear resulting from ordinary use of the premises.

Passed by the House February 13, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 82

[Engrossed Substitute Senate Bill 5245]

### VICTIM AND WITNESS NOTIFICATION PROGRAM—MODIFICATION

AN ACT Relating to the safety of crime victims; amending RCW 72.09.712; adding a new section to chapter 36.28A RCW; adding a new section to chapter 42.56 RCW; and providing an effective date.

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

**Sec. 1.** RCW 72.09.712 and 2021 c 215 s 160 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than thirty days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, release, community custody, work release placement, furlough, or escape about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, ~~((26.10.220,))~~ 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, ~~((or))~~ a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined by RCW 10.99.020, an assault in the third degree offense as defined by RCW 9A.36.031, an unlawful imprisonment offense as defined by RCW 9A.40.040, a vehicular homicide by disregard for the safety of others offense as defined by RCW 46.61.520, or a controlled substances homicide offense as defined by RCW 69.50.415, to the following:

(a) The chief of police of the city, if any, in which the inmate will reside or in which placement will be made in a work release program; and

(b) The sheriff of the county in which the inmate will reside or in which placement will be made in a work release program.

The sheriff of the county where the offender was convicted shall be notified if the department does not know where the offender will reside. The department shall notify the state patrol of the release of all sex offenders, and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, ~~((26.10.220,))~~ 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, ~~((or))~~ a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined by RCW 10.99.020, an assault in the third degree offense as defined by RCW 9A.36.031, an unlawful imprisonment offense as defined by RCW 9A.40.040, a vehicular homicide by disregard for the safety of others offense as defined by RCW 46.61.520, or a controlled substances homicide offense as defined by RCW 69.50.415:

(a) The victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(b) Any witnesses who testified against the inmate in any court proceedings involving the violent offense;

(c) Any person specified in writing by the prosecuting attorney; and

(d) Any person who requests such notice about a specific inmate convicted of a sex offense as defined by RCW 9.94A.030 from the department of corrections at least sixty days prior to the expected release date of the offender.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate. Whenever the department of corrections mails notice pursuant to this subsection and the notice is returned as undeliverable, the department shall attempt alternative methods of notification, including a telephone call to the person's last known telephone number.

(3) The existence of the notice requirements contained in subsections (1) and (2) of this section shall not require an extension of the release date in the event that the release plan changes after notification.

(4) If an inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, ~~((26.10.220,))~~ 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145, ~~((or))~~ a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined by RCW 10.99.020, an assault in the third degree offense as defined by RCW 9A.36.031, an unlawful imprisonment offense as defined by RCW 9A.40.040, a vehicular homicide by disregard for the safety of others offense as defined by RCW 46.61.520, or a controlled substances homicide offense as defined by RCW 69.50.415, escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the

sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(5) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(6) The department of corrections shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(7) The department of corrections shall keep, for a minimum of two years following the release of an inmate, the following:

(a) A document signed by an individual as proof that that person is registered in the victim or witness notification program; and

(b) A receipt showing that an individual registered in the victim or witness notification program was mailed a notice, at the individual's last known address, upon the release or movement of an inmate.

(8) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings and children.

(9) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

**NEW SECTION. Sec. 2.** A new section is added to chapter 36.28A RCW to read as follows:

Information and records prepared, owned, used, or retained by the Washington association of sheriffs and police chiefs revealing the existence of a notification, or of registration to be notified, regarding any specific individual, or the identity of or any information submitted by a person who registers to be notified of a person's custody or supervision status, upcoming hearing, case disposition, or service of a protection order pursuant to the statewide city and county jail booking and reporting system created in RCW 36.28A.040, the statewide automated victim information and notification system created in RCW 36.28A.040, or any other program used for the purposes of notifying individuals of a person's custody or supervision status, upcoming hearing, case disposition, or service of a protection order, are exempt from public inspection and copying under chapter 42.56 RCW.

**NEW SECTION. Sec. 3.** A new section is added to chapter 42.56 RCW to read as follows:

Information and records related to notification or registration for notification as described in section 2 of this act are exempt from disclosure under this chapter.

**NEW SECTION. Sec. 4.** This act takes effect July 1, 2022.

Passed by the Senate March 7, 2022.

Passed by the House March 1, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

**CHAPTER 83**

[Senate Bill 5504]

**DISCOVER PASS FREE DAYS—ALL STATE RECREATION SITES AND LANDS**

AN ACT Relating to extending current discover pass free days from state parks to all state recreation sites and lands; and amending RCW 79A.80.050.

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

**Sec. 1.** RCW 79A.80.050 and 2012 c 261 s 6 are each amended to read as follows:

(1) A discover pass or a day-use permit are not required within a state park for persons who have a valid camper registration, or annual natural investment permit, issued by the state parks and recreation commission.

(2) ~~((The))~~ In consultation with the director of the department of fish and wildlife and the commissioner of public lands, the director of the state parks and recreation commission must ((provide up to twelve days a)) designate up to 12 days per calendar year where entry to ~~((state parks))~~ a recreation site or lands is free. At least three of those days must be on weekends. When practicable, the free access days should be timed to correspond with any similar free access days planned by the national park service for national parks located in the general region of high volume state parks.

Passed by the Senate January 28, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

**CHAPTER 84**

[Senate Bill 5505]

**PUBLIC MEETING HALLS AND CHURCHES—USE FOR FARMERS MARKET—PROPERTY TAX EXEMPTION**

AN ACT Relating to reinstating a property tax exemption for property owned by certain nonprofit organizations where a portion of the property is used for the purpose of a farmers market; amending RCW 84.36.020 and 84.36.805; and creating new sections.

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

**Sec. 1.** RCW 84.36.020 and 2014 c 99 s 3 are each amended to read as follows:

The following real and personal property shall be exempt from taxation:

(1) All lands, buildings, and personal property required for necessary administration and maintenance, used, or to the extent used, exclusively for public burying grounds or cemeteries without discrimination as to race, color, national origin or ancestry;

(2)(a) All churches, personal property, and the ground, not exceeding five acres in area, upon which a church of any nonprofit recognized religious

denomination is or must be built, together with a parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property. The area exempted must in any case include all ground covered by the church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property and the structures and ground necessary for street access, parking, light, and ventilation, but the area of unoccupied ground exempted in such cases, in connection with church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property, shall not exceed the equivalent of one hundred twenty by one hundred twenty feet except where additional unoccupied land may be required to conform with state or local codes, zoning, or licensing requirements. The parsonage and convent need not be on land contiguous to the church property. Except as otherwise provided in this subsection, to be exempt the property must be wholly used for church purposes.

(b) If the rental income or donations, if applicable, are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented, the exemption provided by this subsection (2) is not nullified by:

(i) The loan or rental of property otherwise exempt under this subsection (2) to a nonprofit organization, association, or corporation, or school to conduct an eleemosynary activity;

(ii) The rental or use of the property by any individual, group, or entity, where such rental or use is not otherwise authorized by this subsection (2), for not more than fifty days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than fifteen of the fifty days in each calendar year. The fifty and fifteen-day limitations provided in this subsection (2)(b)(ii) do not include days during which setup and takedown activities take place immediately preceding or following a meeting or other event by an individual, group, or entity using the property as provided in this subsection (2)(b)(ii). The 15-day and 50-day limitations provided in this subsection (2)(b)(ii) do not apply to the use of the property for pecuniary gain or for business activities if the property is used for activities related to a qualifying farmers market, as defined in RCW 66.24.170, and all income received from rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes. The exempt property may be used for up to 53 days for the purposes of a qualifying farmers market; or

(iii) An inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

**Sec. 2.** RCW 84.36.805 and 2016 c 217 s 3 are each amended to read as follows:

(1) In order to qualify for an exemption under this chapter, the nonprofit organizations, associations, or corporations must satisfy the conditions in this section.

(2) The property must be used exclusively for the actual operation of the activity for which exemption is granted, unless otherwise provided, and does not

exceed an amount reasonably necessary for that purpose. Notwithstanding anything to the contrary in this section:

(a) The loan or rental of the property does not subject the property to tax if:

(i) The rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and

(ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037, 84.36.050, and 84.36.060(1) (a) and (b), the property would be exempt from tax if owned by the organization to which it is loaned or rented;

(b) The use of the property for fund-raising events does not subject the property to tax if the fund-raising events are consistent with the purposes for which the exemption is granted or are conducted by a nonprofit organization. If the property is loaned or rented to conduct a fund-raising event, the requirements of (a) of this subsection (2) apply;

(c) An inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted does not subject the property to tax, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

(3) The facilities and services must be available to all regardless of race, color, national origin or ancestry.

(4) The organization, association, or corporation must be duly licensed or certified where such licensing or certification is required by law or regulation.

(5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller does not qualify for exempt status. This subsection does not apply to property sold to a nonprofit entity, as defined in RCW 84.36.560(7), by:

(a) A nonprofit as defined in RCW 84.36.800 that is exempt from income tax under 26 U.S.C. Sec. 501(c) of the federal internal revenue code;

(b) A governmental entity established under RCW 35.21.660, 35.21.670, or 35.21.730;

(c) A housing authority created under RCW 35.82.030;

(d) A housing authority meeting the definition in RCW 35.82.210(2)(a); or

(e) A housing authority established under RCW 35.82.300.

(6) The department must have access to its books in order to determine whether the nonprofit organization, association, or corporation is exempt from taxes under this chapter.

(7) This section does not apply to exemptions granted under RCW 84.36.020, 84.36.032, 84.36.250, 84.36.049, and 84.36.480(2).

(8)(a) The use of property exempt under this chapter, other than as specifically authorized by this chapter, nullifies the exemption otherwise available for the property for the assessment year. However, the exemption is not nullified by the use of the property by any individual, group, or entity, where such use is not otherwise authorized by this chapter, for not more than fifty days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than fifteen of the fifty days in each calendar year. The fifty and fifteen-day limitations provided in this subsection (8)(a) do not include days during which setup and takedown activities take place

immediately preceding or following a meeting or other event by an individual, group, or entity using the property as provided in this subsection (8)(a).

(b) If uses of the exempt property exceed the fifty and fifteen-day limitations provided in (a) of this subsection (8) during an assessment year, the exemption is removed for the affected portion of the property for that assessment year.

(c) The 15-day and 50-day limitations provided in (a) of this subsection (8) do not apply to property exempt under RCW 84.36.037 if the property is used for activities related to a qualifying farmers market, as defined in RCW 66.24.170, and all income received from rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes. Exempt property under RCW 84.36.037 may be used for up to 53 days for the purposes of a qualifying farmers market.

NEW SECTION. Sec. 3. This act applies both retroactively and prospectively to taxes levied for collection in 2021 and thereafter.

NEW SECTION. Sec. 4. RCW 82.32.805 and 82.32.808 do not apply to this act.

Passed by the Senate February 8, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 85

[Senate Bill 5519]

### CERTIFIED PUBLIC ACCOUNTANTS—INACTIVE LICENSE DESIGNATION

AN ACT Relating to replacing an inactive certificate status with an inactive license designation; amending RCW 18.04.015, 18.04.025, 18.04.055, 18.04.065, 18.04.105, 18.04.180, 18.04.195, 18.04.195, 18.04.215, 18.04.215, 18.04.295, 18.04.320, 18.04.335, 18.04.345, 18.04.345, 18.04.350, 18.04.350, 18.04.370, 18.04.405, and 18.04.430; providing an effective date; and providing an expiration date.

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

**Sec. 1.** RCW 18.04.015 and 2001 c 294 s 1 are each amended to read as follows:

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

(a) 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) To protect the public interest by requiring that:

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

(ii) A public authority be established that is competent to prescribe and assess the qualifications of certified public accountants(~~(, including certificate holders who are not licensed for the practice of public accounting)~~);



(iii) 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) 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) 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 2016 c 127 s 1 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 ~~((a certificate as a certified public accountant issued prior to July 1, 2001, as authorized under the provisions of this chapter.~~

(4) "Certificate holder" means the holder of a certificate as a certified public accountant who has not become a licensee, has maintained CPE requirements, and who does not practice public accounting.

~~((5))~~ 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.

~~((6))~~ (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.

~~((7))~~ (6) "CPE" means continuing professional education.

~~((8))~~ (7) "Firm" means a sole proprietorship, a corporation, or a partnership. "Firm" also means a limited liability company formed under chapter 25.15 RCW.

~~((9))~~ (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.

~~((10))~~ (9) "Inactive" means the ~~((certificate is in an inactive status because a person who held a valid certificate before July 1, 2001, has not met the current requirements of licensure and has been granted inactive certificate holder))~~ 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.

~~((11))~~ (10) "Individual" means a living, human being.

~~((12))~~ (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.

~~((13))~~ (12) "Licensee" means the holder of a license to practice public accountancy issued under this chapter.

~~((14))~~ (13) "Manager" means a manager of a limited liability company licensed as a firm under this chapter.

~~((15))~~ (14) "NASBA" means the national association of state boards of accountancy.

~~((16))~~ (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 ~~((the "quality assurance review" under subsection (20) of this section))~~ a quality assurance review.

~~((47))~~ (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.

~~((48))~~ (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) by persons or firms not required to be licensed under this chapter.

~~((49))~~ (18) "Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and reciprocity.

~~((20))~~ (19) "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.

~~((21))~~ (20) "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) provided by persons not holding a license under this chapter as provided in RCW 18.04.350(14).

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

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

~~((24))~~ (23) "Sole proprietorship" means a legal form of organization owned by one person meeting the requirements of RCW 18.04.195.

~~((25))~~ (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 standards in RCW 18.04.350(2)(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 18.04.055 and 2019 c 71 s 1 are each amended to read as follows:

The board may adopt and amend rules under chapter 34.05 RCW for the orderly conduct of its affairs. The board shall prescribe rules consistent with this chapter as necessary to implement this chapter. Included may be:

- (1) Rules of procedure to govern the conduct of matters before the board;
- (2) Rules of professional conduct for all licensees~~((= certificate holders,))~~ and nonlicensee owners of licensed firms, in order to establish and maintain high standards of competence and ethics including rules dealing with independence, integrity, objectivity, and freedom from conflicts of interest;
- (3) Rules specifying actions and circumstances deemed to constitute holding oneself out as a licensee in connection with the practice of public accountancy;
- (4) Rules specifying the manner and circumstances of the use of the titles "certified public ~~((=accountant" and "CPA," by holders of certificates who do not also hold licenses))~~ accountant," "CPA," "CPA-inactive," and "CPA-retired" by holders of a license under this chapter;
- (5) Rules specifying the educational requirements to take the certified public accountant examination;
- (6) Rules designed to ensure that licensees' "reports" meet the definitional requirements for that term as specified in RCW 18.04.025;
- (7) Requirements for CPE to maintain or improve the professional competence of licensees as a condition to maintaining their license ~~((and certificate holders as a condition to maintaining their certificate under RCW 18.04.215));~~
- (8) Rules governing firms issuing or offering to issue attest or compilation reports or providing public accounting services as defined in RCW 18.04.025 using the title "certified public accountant" or "CPA" including, but not limited to, rules concerning their style, name, title, and affiliation with any other organization, and establishing reasonable practice and ethical standards to protect the public interest;

(9) The board may by rule implement a quality assurance review program as a means to monitor licensees' quality of practice and compliance with professional standards. The board may exempt from such program, licensees who undergo periodic peer reviews in programs of the American Institute of Certified Public Accountants, NASBA, or other programs recognized and approved by the board;

(10) The board may by rule require licensed firms to obtain professional liability insurance if in the board's discretion such insurance provides additional and necessary protection for the public;

(11) Rules specifying the experience requirements in order to qualify for a license;

~~(12) ((Rules specifying the requirements for certificate holders to qualify for a license under this chapter which must include provisions for meeting CPE and experience requirements prior to application for licensure;~~

~~(13))~~ Rules specifying the registration requirements, including ethics examination and fee requirements, for resident nonlicensee partners, shareholders, and managers of licensed firms;

~~((14))~~ (13) Rules specifying the ethics CPE requirements for ~~((certificate holders))~~ an individual with an inactive license and owners of licensed firms, including the process for reporting compliance with those requirements;

~~((15))~~ (14) Rules specifying the experience and CPE requirements for licensees offering or issuing reports; and

~~((16))~~ (15) Any other rule which the board finds necessary or appropriate to implement this chapter.

**Sec. 4.** RCW 18.04.065 and 2015 c 215 s 6 are each amended to read as follows:

The board shall set its fees at a level adequate to pay the costs of administering this chapter. All fees for licenses, registrations of nonlicensee partners, shareholders, and managers of licensed firms, renewals of licenses, renewals of registrations of nonlicensee partners, shareholders, and managers of licensed firms, ~~((renewals of certificates,))~~ reinstatements of lapsed licenses, ~~((reinstatements of lapsed certificates,))~~ reinstatements of lapsed registrations of nonlicensee partners, shareholders, and managers of licensed firms, practice privileges under RCW 18.04.350, and delinquent filings received under the authority of this chapter shall be deposited in the certified public accountants' account created by RCW 18.04.105. Appropriation from such account shall be made only for the cost of administering the provisions of this chapter or for the purpose of administering the certified public accounting scholarship program created in chapter 28B.123 RCW.

**Sec. 5.** RCW 18.04.105 and 2016 c 127 s 3 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 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 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 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 ((18.04 RCW)). 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) (~~Persons who on June 30, 2001, held valid certificates previously issued under this chapter shall be deemed to be certificate holders, subject to the following:~~

~~(a) Certificate holders may, prior to June 30, 2006, petition the board to become licensees by documenting to the board)) 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 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) ((Certificate holders who do not petition to become licensees prior to June 30, 2006, may after that date petition the board to become licensees by documenting))~~ 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) ((Certificate holders who petition the board pursuant to (a) or (b) of this subsection must also meet))~~ Meet competency requirements in a manner as determined by the board to be appropriate and established by board rule.

~~(d) ((Any certificate holder petitioning the board pursuant to (a) or (b) of this subsection to become a licensee must submit))~~ 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) ((Any certificate holder petitioning the board pursuant to (a) or (b) of this subsection to become a licensee must pay))~~ Pay the appropriate fees established by rule by the board.

~~(5) ((Certificate holders shall comply with the prohibition against the practice of public accounting in RCW 18.04.345.~~

~~(6) Persons who on June 30, 2001, held valid certificates previously issued under this chapter are deemed to hold inactive certificates, subject to renewal as inactive certificates, until they have petitioned the board to become licensees and have met the requirements of subsection (4) of this section. No individual who did not hold a valid certificate before July 1, 2001, is eligible to obtain an inactive certificate.~~

~~(7) Persons deemed to hold inactive certificates under subsection (6) of this section shall comply with the prohibition against the practice of public accounting in subsection (8)(b) of this section and RCW 18.04.345, but are not required to display the term inactive as part of their title, as required by subsection (8)(a) of this section until renewal. Certificates renewed to any persons after June 30, 2001, are inactive certificates and the inactive certificate holders are subject to the requirements of subsection (8) of this section.~~

~~(8) Persons holding an inactive certificate:~~

~~(a) Must use or attach the term "inactive" whenever using the title CPA or certified public accountant or referring to the certificate, and print the word "inactive" immediately following the title, whenever the title is printed on a business card, letterhead, or any other document, including documents published or transmitted through electronic media, in the same font and font size as the title; and~~

~~(b) Are prohibited from practicing public accounting))~~ 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 in good standing may request to have his or her 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. 6.** RCW 18.04.180 and 2004 c 159 s 3 are each amended to read as follows:

(1) The board shall issue a license to a holder of a certificate/valid 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(~~((5))~~) (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 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 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. 7.** RCW 18.04.195 and 2019 c 71 s 2 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(~~((6))~~) (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) 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 chartered professional accounting firm registered in the Canadian province of British Columbia may provide compilation or attest services in accordance with RCW 18.04.350(15) without obtaining a Washington state CPA firm license.

(c) A firm that is not subject to the requirements of subsection (1)(a) of this section may perform compilation services described in RCW 18.04.025(~~((6))~~) (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)~~) 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 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(~~((7))~~), 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((f, j)), shall license as a firm every three years with the board((f, j)), 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((f, j)), 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) 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 a license under RCW 18.04.215.

(7) In the case of a firm licensed in another state and required to obtain a license under subsection (1)(a)(iii) 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) 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) 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) 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:

(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) 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)(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. 8.** RCW 18.04.195 and 2019 c 71 s 3 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(~~((6))~~) (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) 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 section may perform compilation services described in RCW 18.04.025(~~((6))~~) (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)~~) 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 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 ~~((f))~~, 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 ~~((f))~~, shall license as a firm every three years with the board ~~((f))~~, 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~~((f))~~, 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) 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 a license under RCW 18.04.215.

(7) In the case of a firm licensed in another state and required to obtain a license under subsection (1)(a)(iii) 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) 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) 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) 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:

(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) 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)(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. 9.** RCW 18.04.215 and 2018 c 224 s 5 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 certificate holders meeting the requirements of RCW 18.04.105(4).~~

~~(e)) 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 ~~((certificate and))~~ 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) ((An inactive certificate is renewed every three years with renewal subject to the requirements of ethics CPE and the payment of fees, prescribed by the board. Failure to renew the inactive certificate shall cause the inactive~~

~~certificate to lapse and be subject to reinstatement. The board shall adopt rules providing for fees and procedures for renewal and reinstatement of inactive certificates.~~

~~(4))~~ (4) 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" or "certified public accountant."))~~ "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.

~~((5))~~ (4) The board shall adopt rules providing for CPE for active or inactive licensees ~~((and certificate holders))~~. The rules shall:

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

~~((c))~~ (c) Establish CPE requirements; and

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

~~((6))~~ (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.

~~((7))~~ (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 ~~((certificate or))~~ 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 certificate holders))~~ and instances of individual hardship.

~~((8))~~ (7) Fees for renewal or reinstatement of ~~((certificates and))~~ 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 ~~((or certificates))~~ issued between normal renewal dates.



~~((9))~~ (8)(a) Licensees(~~(, certificate holders,)~~) 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(~~(, certificate holder,)~~) or nonlicensee owner by any federal or other state agency related to the licensee's practice of public accounting or the licensee's(~~(, certificate holder's,)~~) or nonlicensee owner's violation of ethical or technical standards established by board rule; or

(iii) The licensee(~~(, certificate holder,)~~) or nonlicensee owner is notified that he or she has been charged with a violation of law that could result in the suspension or revocation of a license (~~(or certificate)~~) by a federal or other state agency, as identified by board rule, related to the licensee's(~~(, certificate holder'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(~~(, certificate holders,)~~) and nonlicensee owners to report to the board sanctions or orders relating to the licensee's practice of public accounting or the licensee's(~~(, certificate holder's,)~~) or nonlicensee owner's violation of ethical or technical standards entered against the licensee(~~(, certificate holder,)~~) or nonlicensee owner by a nongovernmental professionally related standard-setting entity.

~~((10))~~ (9) A chartered professional accounting firm registered in the Canadian province of British Columbia and its owners and employees that provide compilation or attest services in accordance with RCW 18.04.350(15) are not required to obtain a CPA firm license or individual CPA licenses and will not be subject to license fees.

**Sec. 10.** RCW 18.04.215 and 2003 c 290 s 2 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 certificate holders meeting the requirements of RCW 18.04.105(4)-~~  
~~(e)))~~ 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 ~~((certificate and))~~ 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) ~~((An inactive certificate is renewed every three years with renewal subject to the requirements of ethics CPE and the payment of fees, prescribed by the board. Failure to renew the inactive certificate shall cause the inactive certificate to lapse and be subject to reinstatement. The board shall adopt rules providing for fees and procedures for renewal and reinstatement of inactive certificates.~~

(4)) 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~~" or "~~certified public accountant.~~") "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.

~~((5))~~ (4) The board shall adopt rules providing for CPE for active or inactive licensees and certificate holders. The rules shall:

(a) Provide that ~~((a))~~ an active licensee shall verify to the board that he or she 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 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

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

~~((6))~~ (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.

~~((7))~~ (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 ~~((certificate or))~~ 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 certificate holders))~~ and instances of individual hardship.

~~((8))~~ (7) Fees for renewal or reinstatement of ~~((certificates and))~~ 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 ~~((or certificates))~~ issued between normal renewal dates.

~~((9))~~ (8)(a) Licensees ~~((, certificate holders,))~~ 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(~~(, certificate holder,)~~) or nonlicensee owner by any federal or other state agency related to the licensee's practice of public accounting or the licensee's(~~(, certificate holder's,)~~) or nonlicensee owner's violation of ethical or technical standards established by board rule; or

(iii) The licensee(~~(, certificate holder,)~~) or nonlicensee owner is notified that he or she has been charged with a violation of law that could result in the suspension or revocation of a license (~~(or certificate)~~) by a federal or other state agency, as identified by board rule, related to the licensee's(~~(, certificate holder'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(~~(, certificate holders,)~~) and nonlicensee owners to report to the board sanctions or orders relating to the licensee's practice of public accounting or the licensee's(~~(, certificate holder's,)~~) or nonlicensee owner's violation of ethical or technical standards entered against the licensee(~~(, certificate holder,)~~) or nonlicensee owner by a nongovernmental professionally related standard-setting entity.

**Sec. 11.** RCW 18.04.295 and 2004 c 159 s 4 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 (~~(or certificate)~~); 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 certificate holder,)~~) 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 (~~(certificate or a)~~) license; or may prohibit a nonlicensee from holding an ownership interest in a licensed firm, for any of the following causes:

- (1) 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(~~(s)~~) or a licensee(~~(, or a certificate holder,)~~);
- (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 (~~(certificate or)~~) 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.

**Sec. 12.** RCW 18.04.320 and 1986 c 295 s 13 are each amended to read as follows:

In the case of the refusal, revocation, or suspension of a (~~(certificate or a)~~) license by the board under the provisions of this chapter, such proceedings and any appeal therefrom shall be taken in accordance with the administrative procedure act, chapter 34.05 RCW.

**Sec. 13.** RCW 18.04.335 and 2001 c 294 s 16 are each amended to read as follows:

(1) Upon application in writing and after hearing pursuant to notice, the board may:

(a) Modify the suspension of, or reissue (~~(a certificate or)~~) a license to, an individual whose (~~(certificate or)~~) license has been revoked or suspended; or

(b) Modify the suspension of, or reissue a license to a firm whose license has been revoked, suspended, or which the board has refused to renew.

(2) In the case of suspension for failure to comply with a support order under chapter 74.20A RCW, if the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of a (~~(certificate or a)~~) license shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the individual is in compliance with the order.

**Sec. 14.** RCW 18.04.345 and 2019 c 71 s 5 are each amended to read as follows:

(1) Except when performing services as an employee or owner of a firm that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 in accordance with RCW 18.04.350(15), 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 (~~(certificate)~~) license in an inactive status. Individuals holding only (~~(a certificate)~~) an inactive license may not practice public accounting.

(2) No individual may hold himself or herself 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, or is providing compilation or attest services as an employee or owner of a firm operating in accordance with RCW 18.04.350(15).

(3) 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(~~((6))~~) (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) by persons not required to be licensed under this chapter, nor does it prohibit compilation or attest services performed in accordance with RCW 18.04.350(15).

(4) 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. This subsection does not prohibit services performed in accordance with RCW 18.04.350(15).

(5) Except when performing services as an employee or owner of a firm operating in accordance with RCW 18.04.350(15), no individual, partnership, limited liability company, or corporation offering public accounting services to the public may hold himself, herself, or itself out to the public, or assume or use along, or in connection with his, hers, 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) Except when performing services as an employee or owner of a firm operating in accordance with RCW 18.04.350(15), no individual with an office in this state may sign, affix, or associate his or her name or any trade or assumed name used by the individual in his or her 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.

(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);

(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; or

(c) Is performing services as an employee or owner of a firm in accordance with the provisions of RCW 18.04.350(15).

(9) No individual, partnership, limited liability company, or corporation 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), or not operating in accordance with the provisions of RCW 18.04.350(15), may hold himself, herself, 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) For purposes of this section, because individuals practicing using practice privileges under RCW 18.04.350(2) are deemed substantially equivalent 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) and (5) are maintained.

(11) 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. 15.** RCW 18.04.345 and 2019 c 71 s 6 are each amended to read as follows:

(1) 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 ~~((certificate))~~ license in an inactive status. Individuals holding only ~~((a certificate))~~ an inactive license may not practice public accounting.

(2) No individual may hold himself or herself 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.

(3) 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~~((6))~~ (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) by persons not required to be licensed under this chapter.

(4) 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.

(5) No individual, partnership, limited liability company, or corporation offering public accounting services to the public may hold himself, herself, or itself out to the public, or assume or use along, or in connection with his, hers, 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) No individual with an office in this state may sign, affix, or associate his or her name or any trade or assumed name used by the individual in his or her 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.

(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) No individual, partnership, limited liability company, or corporation 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, 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) For purposes of this section, because individuals practicing using practice privileges under RCW 18.04.350(2) are deemed substantially equivalent 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) and (5) are maintained.

(11) 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. 16.** RCW 18.04.350 and 2018 c 224 s 2 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 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 as a certified public accountant from any state 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; or

(b) Holds a valid license 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. 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) 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) of this section.

(4) 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) 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) ~~((iii))~~ (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 ~~((2+))~~ (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(~~((21))~~) (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 (~~(certificate)~~) 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 (~~(a certificate holder)~~) 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 (~~(has been granted a certificate or)~~) 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 (~~(has been granted a certificate or)~~) 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 (~~(has been granted a certificate or)~~) 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.

(15) Nothing in this chapter prohibits any firm holding a license or registration as a chartered professional accounting firm in the Canadian province of British Columbia from performing any of the following services: (a) An attest or compilation engagement of a business entity operating in Washington state that is the consolidated, subsidiary, or component entity of another entity that is operating in Canada who acts as the issuer of the report; or (b) a stand-alone attest or compilation engagement of a wholly or majority-owned subsidiary and/or component of an entity that is operating in Canada.

**Sec. 17.** RCW 18.04.350 and 2016 c 127 s 7 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 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 as a certified public accountant from any state 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; or

(b) Holds a valid license 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. 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) 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) of this section.

(4) 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) 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(~~((21))~~) (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(~~((21))~~) (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 ~~((certificate))~~ 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 ~~((a certificate holder))~~ 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 ~~((has been granted a certificate or))~~ 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 ~~((has been granted a certificate or))~~ 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 ~~((has been granted a certificate or))~~ 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.

**Sec. 18.** RCW 18.04.370 and 2004 c 159 s 5 are each amended to read as follows:

(1) Any person who violates any provision of this chapter shall be guilty of a crime, as follows:

(a) Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than six months, or to both such fine and imprisonment.

(b) Notwithstanding (a) of this subsection, any person who uses a professional title intended to deceive the public, in violation of RCW 18.04.345, having previously entered into a stipulated agreement and order of assurance with the board, is guilty of a class C felony, and upon conviction thereof, is subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than two years, or to both such fine and imprisonment.

(c) Notwithstanding (a) of this subsection, any person whose license ~~((or certificate))~~ was suspended or revoked by the board and who uses the CPA professional title intending to deceive the public, in violation of RCW 18.04.345, having previously entered into a stipulated agreement and order of assurance with the board, is guilty of a class C felony, and upon conviction thereof, is subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than two years, or to both fine and imprisonment.

(2) With the exception of first time violations of RCW 18.04.345, subject to subsection (3) of this section whenever the board has reason to believe that any person is violating the provisions of this chapter it shall certify the facts to the prosecuting attorney of the county in which such person resides or may be

apprehended and the prosecuting attorney shall cause appropriate proceedings to be brought against such person.

(3) The board may elect to enter into a stipulated agreement and orders of assurance with persons in violation of RCW 18.04.345 who have not previously been found to have violated the provisions of this chapter. The board may order full restitution to injured parties as a condition of a stipulated agreement and order of assurance.

(4) Nothing herein contained shall be held to in any way affect the power of the courts to grant injunctive or other relief as above provided.

**Sec. 19.** RCW 18.04.405 and 2001 c 294 s 22 are each amended to read as follows:

(1) A licensee(~~(certificate holder)~~) 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 ~~((3))~~ (7) and ~~((4))~~ (8), 18.04.295~~((8))~~ (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. 20.** RCW 18.04.430 and 1997 c 58 s 811 are each amended to read as follows:

The board shall immediately suspend the (~~certificate or~~) 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. 21. Sections 7, 9, 14, and 16 of this act expire June 30, 2023.

NEW SECTION. Sec. 22. Sections 8, 10, 15, and 17 of this act take effect June 30, 2023.

Passed by the Senate January 19, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 86

[Senate Bill 5529]

### PERSONAL AIDE PROVIDERS—SELF-DIRECTED CARE

AN ACT Relating to self-directed care; amending RCW 74.39.007, 74.39.050, and 74.39.070; and repealing RCW 74.39.060.

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

**Sec. 1.** RCW 74.39.007 and 1999 c 336 s 2 are each amended to read as follows:

The definitions in this section apply throughout RCW 74.39.007, 74.39.050, (~~74.39.060,~~) 74.39.070, 43.190.060, and section 1, chapter 336, Laws of 1999 unless the context clearly requires otherwise.

(1) "Self-directed care" means the process in which an adult person, who is prevented by a functional disability from performing a manual function related to health care that an individual would otherwise perform for himself or herself, chooses to direct and supervise a paid personal aide to perform those tasks.

(2) "Personal aide" means an individual, working privately or as an individual provider (~~((under contract or agreement with the department of social and health services))~~) as defined in RCW 74.39A.240, who acts at the direction of an adult person with a functional disability living in his or her own home ((and provides that person with health care services that a person)) to assist with the physical performance of a health care task, as described in RCW 74.39.050, that persons without a functional disability can perform themselves.

**Sec. 2.** RCW 74.39.050 and 1999 c 336 s 3 are each amended to read as follows:

(1) An adult person with a functional disability living in his or her own home may direct and supervise a paid personal aide in the performance of a health care task.

(2) The following requirements shall guide the provision of self-directed care under chapter 336, Laws of 1999:

(a) Health care tasks are those medical, nursing, or home health services that enable the person to maintain independence, personal hygiene, and safety in his or her own home, and that are services that a person without a functional

disability would customarily and personally perform without the assistance of a licensed health care provider.

(b) The individual who chooses to self-direct a health care task is responsible for initiating self-direction by informing the health care professional who has ordered the treatment which involves that task of the individual's intent to perform that task through self-direction.

(c) When state funds are used to pay for self-directed tasks, a description of those tasks will be included in the client's comprehensive assessment, and subject to review with each annual reassessment.

(d) When a licensed health care provider orders treatment involving a health care task to be performed through self-directed care, the responsibility to ascertain that the patient understands the treatment and will be able to follow through on the self-directed care task is the same as it would be for a patient who performs the health care task for himself or herself, and the licensed health care provider incurs no additional liability when ordering a health care task which is to be performed through self-directed care.

(e) The role of the personal aide in self-directed care is limited to performing the physical aspect of health care tasks under the direction of the person for whom the tasks are being done. This shall not affect the ability of a person who acts as a personal aide by performing self-directed health care tasks to also provide other home care services, such as personal care or homemaker services, which enable the client to remain at home.

(f) The responsibility to initiate self-directed health care tasks, to possess the necessary knowledge and training for those tasks, and to exercise judgment regarding the manner of their performance rests and remains with the person who has chosen to self-direct those tasks, including the decision to employ and dismiss a personal aide.

**Sec. 3.** RCW 74.39.070 and 1999 c 336 s 8 are each amended to read as follows:

A personal aide, in the performance of a health care task, who is directed and supervised by a person with a functional disability in his or her own home, is exempt from any legal requirement to qualify and be credentialed by the department of health as a health care provider under Title 18 RCW to the extent of the responsibilities provided and health care tasks performed under chapter 336, Laws of 1999. Nothing in this section exempts an individual provider from being required to become a certified home care aide under chapter 18.88B RCW.

NEW SECTION. **Sec. 4.** RCW 74.39.060 (Personal aide providers—Registration) and 1999 c 336 s 4 are each repealed.

Passed by the Senate March 7, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.



**CHAPTER 87**

[Senate Bill 5539]

EDUCATIONAL SERVICE DISTRICTS—STATE FUNDING—SCHOOL EMPLOYEES'  
BENEFITS

AN ACT Relating to state funding for educational service districts; and adding a new section to chapter 28A.310 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 28A.310 RCW to read as follows:

State funding shall be provided to each educational service district for the employer cost of school employees' benefits that are provided to employees of an educational service district that are covered by a collective bargaining agreement.

Passed by the Senate February 9, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

**CHAPTER 88**

[Substitute Senate Bill 5548]

## UNIFORM UNREGULATED CHILD CUSTODY TRANSFER ACT

AN ACT Relating to the uniform unregulated child custody transfer act; amending RCW 26.33.400; adding a new chapter to Title 26 RCW; recodifying RCW 26.33.400; repealing RCW 26.33.370; and prescribing penalties.

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

**PART I****GENERAL PROVISIONS**

**NEW SECTION. Sec. 101.** SHORT TITLE. This act may be known and cited as the uniform unregulated child custody transfer act.

**NEW SECTION. Sec. 102.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Child" means an unemancipated individual under 18 years of age.

(2) "Child-placing agency" means a person with authority under chapter 74.15 RCW to identify or place a child for adoption. "Child-placing agency" does not include a parent of the child.

(3) "Custody" has the same meaning as "physical custody" as defined in RCW 26.27.021.

(4) "Department" means the department of children, youth, and families.

(5) "Guardian" means a person recognized as a legal guardian under RCW 26.33.020 or under chapter 11.130 RCW.

(6) "Intercountry adoption" means an adoption or placement for adoption of a child who resides in a foreign country at the time of adoption or placement. "Intercountry adoption" includes an adoption finalized in the child's country of residence or in a state.

(7) "Intermediary" means a person that assists or facilitates a transfer of custody of a child, whether or not for compensation.

(8) "Parent" has the same meaning as defined in RCW 26.26A.010.

(9) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(10) "Record" means information:

(a) Inscribed on a tangible medium; or

(b) Stored in an electronic or other medium and retrievable in perceivable form.

(11) "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. "State" includes a federally recognized Indian tribe.

**NEW SECTION. Sec. 103. LIMITATION ON APPLICABILITY.** This act does not apply to custody of an Indian child, as defined in the Indian child welfare act of 1978, 25 U.S.C. Sec. 1903, as amended, to the extent custody is governed by the Indian child welfare act of 1978, 25 U.S.C. Secs. 1901 through 1963, as amended.

## PART II

### PROHIBITION OF UNREGULATED CUSTODY TRANSFER

**NEW SECTION. Sec. 201. APPLICABILITY.** This section, sections 202 and 203 of this act, and RCW 26.33.400 (as recodified by this act) do not apply to a transfer of custody of a child by a parent or guardian of the child to:

(1) A parent of the child;

(2) A stepparent of the child;

(3) An adult who is related to the child by blood or by law;

(4) An adult who, at the time of the transfer, had a close relationship with the child or the parent or guardian of the child for a substantial period, and whom the parent or guardian reasonably believes, at the time of the transfer, to be a fit custodian of the child;

(5) An Indian custodian, as defined in the Indian child welfare act of 1978, 25 U.S.C. Sec. 1903, as amended, of the child;

(6) A member of the child's customary family unit recognized by the child's Indian tribe under chapter 13.38 RCW; or

(7) A delegation by a parent pursuant to RCW 11.130.145.

**NEW SECTION. Sec. 202. PROHIBITED CUSTODY TRANSFER.** (1) Except as provided in subsection (2) of this section, a parent or guardian of a child or an individual with whom a child has been placed for adoption may not transfer custody of the child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child.

(2) A parent or guardian of a child or an individual with whom a child has been placed for adoption may transfer custody of the child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child only through:

(a) A judicial award of custody under chapter 11.130 or 13.34 RCW or this title;

(b) Placement by or through a child-placing agency;

(c) A judicial award of custody or other action in a tribal court; or

(d) Transfer of a newborn to a qualified person under RCW 13.34.360.

(3) A person may not receive custody of a child, or act as an intermediary in a transfer of custody of a child, if the person knows or reasonably should know the transfer violates subsection (1) of this section. This prohibition does not apply if the person, as soon as practicable after the transfer, notifies the department or law enforcement of the transfer or takes appropriate action to establish custody under subsection (2) of this section.

(4) Violation of this section is a gross misdemeanor.

(5) Violation of subsection (1) of this section is not established solely because a parent or guardian that transfers custody of a child or makes a delegation pursuant to RCW 11.130.145 does not regain custody.

(6) For purposes of this section, "abandon" has the same meaning as "abandoned" in RCW 13.34.030.

**NEW SECTION. Sec. 203. AUTHORITY AND RESPONSIBILITY OF THE DEPARTMENT.** (1) If the department has a reasonable basis to believe that a person has transferred or will transfer custody of a child in violation of section 202(1) of this act, the department must respond in accordance with chapter 74.13 RCW.

(2) If the department provides a child protective services response in accordance with chapter 26.44 RCW for a child adopted or placed through an intercountry adoption, the department shall:

(a) Prepare a report on the welfare and plan for permanent placement of the child; and

(b) Provide a copy of the report to the United States department of state. For the purpose of preventing child abuse or neglect, the department of children, youth, and families may disclose to the United States department of state only those confidential child welfare records that may assist the United States department of state in informing the child's country of origin that the custody of the child has been transferred in an unregulated custody transfer and describing the child's welfare and plan for permanent placement of the child. The records retain their confidentiality subject to RCW 13.50.100 and federal law.

(3) This act does not prevent the department from taking any appropriate action to protect the welfare of the child.

**Sec. 204.** RCW 26.33.400 and 2006 c 248 s 4 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, "advertisement" means communication by newspaper, radio, television, handbills, placards or other print, broadcast, or the electronic medium. This definition applies throughout this section.

(2) No person or entity shall cause to be published for circulation, or broadcast on a radio or television station, within the geographic borders of this state, an advertisement of a child or children offered or wanted for adoption or other custody transfer, or shall hold himself or herself out through such advertisement as having the ability to place, locate, dispose, or receive a child or children for adoption or other custody transfer unless such person or entity is:

(a) A duly authorized agent, contractee, or employee of the department or a children's agency or institution licensed by the department to care for and place children;

(b) A person who has a completed preplacement report as set forth in RCW 26.33.190 (1) and (2) or chapter 26.34 RCW with a favorable recommendation as to the fitness of the person to be an adoptive parent, or such person's duly authorized uncompensated agent, or such person's attorney who is licensed to practice in the state. Verification of compliance with the requirements of this section shall consist of a written declaration by the person or entity who prepared the preplacement report.

Nothing in this section prohibits an attorney licensed to practice in Washington state from advertising his or her availability to practice or provide services related to the adoption or other custody transfer of children.

(3)(a) A violation of subsection (2) of this section is a matter affecting the public interest and constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying chapter 19.86 RCW.

(b) The attorney general may bring an action in the name of the state against any person violating the provisions of this section in accordance with the provisions of RCW 19.86.080.

(c) Nothing in this section applies to any radio or television station or any publisher, printer, or distributor of any newspaper, magazine, billboard, or other advertising medium which accepts advertising in good faith without knowledge of its violation of any provision of this section after an attempt to verify the advertising is in compliance with this section.

### PART III

#### MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 301. 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. 302. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., as amended, 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. 303. TRANSITIONAL PROVISIONS. Sections 201 through 203 of this act and RCW 26.33.400 (as recodified by this act) apply to:

- (1) A transfer of custody on or after the effective date of this section; and
- (2) Soliciting or advertising on or after the effective date of this section.

NEW SECTION. Sec. 304. SEVERABILITY CLAUSE. 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. 305. CODIFICATION DIRECTIVE. Sections 101 through 303 of this act constitute a new chapter in Title 26 RCW.

NEW SECTION. Sec. 306. RECODIFICATION. RCW 26.33.400 is recodified as a section in the new chapter created in section 305 of this act.

NEW SECTION. Sec. 307. REPEALER. RCW 26.33.370 (Permanent care and custody of a child—Assumption, relinquishment, or transfer except by court

order or statute, when prohibited—Penalty) and 1984 c 155 s 36 are each repealed.

Passed by the Senate January 26, 2022.

Passed by the House March 4, 2022.

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## CHAPTER 89

[Substitute Senate Bill 5558]

### INTERSTATE TOLL BRIDGES OWNED BY LOCAL GOVERNMENTS—BISTATE GOVERNANCE

AN ACT Relating to the bistate governance of interstate toll bridges owned by local governments; amending RCW 47.56.860; and adding a new chapter to Title 47 RCW.

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

**NEW SECTION. Sec. 1.** The legislature finds and declares that:

(1) Interstate toll bridges owned by local governments provide critical links for the transport of workers, services, tourism, and emergency response between Washington and Oregon, and for Washington and Oregon businesses to transport local agricultural products, forest products, rock and gravel, and manufactured products within their bistate regions and to broader national markets.

(2) Existing local government-owned interstate toll bridges are becoming functionally obsolete, weight-restricted, seismically deficient, and a hazardous obstacle for marine freight; and need to be replaced.

(3) Replacement of aging interstate toll bridges by local governments is extremely challenging, and local governments that own or are served by the bridges require additional means to address the problem. For some bistate regions, the successful replacement and subsequent operations of interstate toll bridges can be best accomplished by an independent bistate governmental authority, chartered by local governments, with sufficient powers to efficiently and equitably develop, operate, maintain, toll, and finance the replacement bridge.

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

(1) "Applicable laws" means the laws applicable to the commission pursuant to section 13 of this act.

(2) "Board" means the board of directors of a commission formed under this chapter.

(3) "Bordering state" means a state that shares a boundary with the state of Washington, the majority of which is formed by a river, and that enacts legislation authorizing the formation by local governments of a commission with the substantive powers provided in this chapter.

(4) "Bridge" means an interstate bridge, including any approaches, buildings, structures, facilities, equipment, improvements, tolling systems and software, and appurtenances necessary or incidental to the bridge, which replaces an existing bridge.

(5) "Bridge finance plan" means a plan adopted by the board to finance the design, construction, operations, maintenance, administration, and governance of the bridge, as it may be revised from time to time.

(6) "Commission" means a public corporation formed under this chapter.

(7) "Commission formation agreement" means a bistate agreement among local governments to charter and form a commission under this chapter.

(8) "Construction" or "construct" means all activities, materials, and services necessary or incidental to the design and construction of a bridge including, but not limited to, engineering, permitting, property acquisition, procurement, installation of equipment, site work, utility relocation, inspection, start-up, landscaping, hard construction, environmental mitigation, demolition and removal of an existing bridge, and all associated accounting, legal, administrative, project management, and governance activities.

(9) "Debt instrument" means any contractual undertaking, financing agreement, or instrument entered into or issued by a commission to evidence an obligation to repay or guaranty repayment of borrowed moneys including, but not limited to, bonds, refunding bonds, notes, loans, interim financing, anticipation notes, certificates, credit enhancement devices, or other debt obligations.

(10) "Departments of transportation" means the Washington state department of transportation and the department of transportation of a bordering state.

(11) "Director" means a duly appointed member of the board or, when acting in the absence of a director, a duly appointed alternate member of the board.

(12) "Existing bridge" means an interstate toll bridge owned by a local government, or which has been conveyed by a local government to a commission, which is to be replaced by a new bridge.

(13) "Local government" means any county, city, or port district along the border of a bordering state that enters into a commission formation agreement.

(14) "Operate" or "operations" means all activities necessary or incidental to the operations, tolling, maintenance, repair, rehabilitation, renewal, or replacement of the bridge, and all associated financial, legal, administrative, management, and governance activities.

(15) "Other charges" means administrative and other fees, civil penalties, and other amounts established by the commission for use of the bridge.

(16) "Primary place of business" means the state and county within which the principal headquarters office of the commission is established in a commission formation agreement, notwithstanding any subsequent relocation of the principal headquarters office of the commission.

(17) "Public corporation" means a corporation created under this chapter to perform essential governmental functions for the public purposes described in this chapter, and, when issuing bonds or other debt instruments, acts on behalf of the local governments as a constituted authority, within the meaning of the United States department of the treasury regulations and the internal revenue service rulings adopted under section 103, internal revenue code.

(18) "States" means the state of Washington and a bordering state.

**NEW SECTION. Sec. 3.** (1) Upon enactment of an act by a bordering state having the same material effect as this act, as determined by the office of the

attorney general, local governments may enter into a commission formation agreement to form and charter a commission under this chapter. The commission shall be a public corporation formed under the laws of both states, vested with the powers and duties granted by this chapter. The commission shall perform an essential governmental function and shall exercise its powers for the public purposes described in this chapter.

(2) Local governments may by resolution enter a commission formation agreement, consistent with the requirements of this chapter, to charter and form a commission. The commission formation agreement shall, at a minimum, be approved and executed by the owner of an existing bridge and the governing bodies of the counties within which an existing bridge is situated. A commission formation agreement may be enacted by local governments in phases. However, all required elements of a commission formation agreement must be enacted by the local governments prior to any board authorization to issue toll revenue bonds for the construction of the bridge. The commission formation agreement shall establish the following provisions:

- (a) A name for the commission;
  - (b) The date on which the powers granted to the commission by this chapter become effective;
  - (c) The primary place of business for the purpose of establishing applicable laws under section 13 of this act;
  - (d) The composition and appointment process for members of the board, as described in section 4 (1) and (2) of this act;
  - (e) The term of office for, and rules, responsibilities, and requirements applicable to, the office of chair and cochair, as described in section 4(4) of this act;
  - (f) The requirements for formal actions of the board, as described in section 4(5) of this act; and
  - (g) Such other provisions as the local governments may elect, as long as the provisions comply with applicable laws, and do not impair or adversely affect the powers of the commission granted by this chapter.
- (3) The commission formation agreement may allow the board to amend all or some of the provisions included in the commission formation agreement pursuant to subsection (2)(d), (e), (f), or (g) of this section and section 4(5) of this act, and may establish conditions for such amendments.
- (4) The purposes of the commission are to:
- (a) Design, engineer, develop, finance and refinance, install, equip, and construct a bridge to replace and remove an existing toll bridge;
  - (b) Act as a cooperative bistate governance structure to develop, own or control, fix and adjust tolls, and regulate the use of a bridge;
  - (c) Oversee the efficient operation, maintenance, administration, rehabilitation, and renewal of the bridge; and
  - (d) Perform such additional duties and exercise such additional powers as may hereafter be conferred upon the commission pursuant to law.

**NEW SECTION. Sec. 4.** (1) The commission shall be governed by a board. The commission formation agreement shall establish the number of voting and, if any, nonvoting or ex officio directors appointed by local governments of each state and, if any, appointed by governmental entities that

are not local governments, and shall further establish the procedures for the nomination and appointment of such directors, which may differ by state.

(2) Each nominating authority shall nominate and each appointing authority shall appoint an alternate director for each director it nominates or appoints. The alternate director may only act in the absence of the director for whom the alternate is appointed. Unless the context requires otherwise, the term director under this chapter includes the alternate director when such alternate director is acting in the absence of the director.

(3) Directors and alternate directors shall serve without compensation, but may be reimbursed for reasonable expenses incurred as an incident to the performance of their duties. Directors and alternate directors shall serve at the pleasure of the appointing body, and with or without cause may be removed or suspended from office by the appointing body. The commission formation agreement shall establish the length of the initial term of each of director and alternate director so that subsequent appointments by appointing bodies from each state are reasonably and similarly staggered. Except for the initial appointments of directors and alternate directors, the term of directors and alternate directors shall be four years.

(4) The board shall elect two cochair from among its directors, with one cochair residing in Washington state and the other cochair residing in the bordering state. The two cochair shall serve as first cochair and second cochair, with the first cochair responsible for presiding at all commission meetings. The board shall indicate which cochair will serve in the respective two positions within the first year after the formation of the commission, after which time the two positions must alternate on an annual basis. The commission formation agreement shall establish the terms of the cochair, and may establish such other requirements for the office of cochair as the local governments elect.

(5) Formal actions of the board shall be by ordinance or resolution duly approved at any regular or special meeting of the board. No action of the board shall be effective unless there is a quorum and a majority of the directors present assent. The commission formation agreement shall establish the requirements for a quorum, and may establish such other requirements for formal actions of the board as the local governments may elect, provided such requirements are consistent with applicable laws.

(6) Unless otherwise provided in an ordinance or resolution enacted by the board, the board shall have the exclusive right to exercise the powers granted by this chapter, and the exercise of all powers granted to the board by this chapter shall not be subject to any prior or subsequent authorization, approval, or concurrence by any local government or other governmental entity of either state.

(7) The board shall adopt rules, consistent with applicable laws and the commission formation agreement, regarding the organization, activities, and procedures of the board and the commission, as the board may determine.

**NEW SECTION. Sec. 5.** (1) In addition to any other powers granted under this chapter, the commission shall have the power to:

(a) Construct, purchase, lease, acquire, own, operate, maintain, control, hold, sell, convey, dispose of, and finance and refinance real and personal property, facilities, materials, supplies, equipment, or any interest therein, within



the state of Washington and the bordering state, as the board deems necessary or incidental to the purposes of the commission;

(b) Secure all necessary federal, state, and local authorizations, permits, and approvals for the construction, maintenance, repair, operation, renewal, and financing or refinancing of the bridge;

(c) Adopt, amend, and repeal bylaws, rules, and regulations, consistent with applicable laws and the commission formation agreement, which add specificity to the powers and duties of the commission, clarify or interpret provisions in the commission formation agreement, or clarify or interpret laws and regulations applicable to the commission;

(d) Receive and accept, with or without consideration, from any federal agency, state, local government, or any other public or private source grants, contributions, loans, advances, credit enhancements, or other contributions in money, property, labor, materials, services, or other things of value to accomplish the purposes of the commission;

(e) Invest its moneys in investments permitted for municipal corporations and disburse funds for its lawful purposes;

(f) Make and enter into any contract or agreement the board deems necessary or incidental to the purposes of the commission;

(g) Grant by franchise, lease, or otherwise, the use of any property or facility owned or controlled by the commission and to make charges therefor;

(h) Create and abolish offices, employments, and positions, and employ or contract for professional and other services;

(i) Make and enforce regulations governing the use of facilities owned or controlled by the commission, the services rendered by the commission, and the tolls, fees, and other charges to be made therefor;

(j) Adopt and use a corporate seal;

(k) Sue and be sued in the name of the commission;

(l) Establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;

(m) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(n) Perform all other functions necessary or incidental to the purposes of the commission, or to the execution of the powers granted under this chapter; and

(o) Exercise such additional powers as shall be conferred on it by law.

(2) The commission may not impose any taxes or assessments.

**NEW SECTION. Sec. 6.** (1) Before the start of bridge construction, the board shall appoint or retain:

(a) An executive director, who shall serve at the pleasure of the board, and be in administrative charge of the activities of the commission, and perform such additional duties as directed by the board. Subject to any rules enacted by the commission, the executive director may appoint staff or retain consultants to carry out the purposes and duties of the commission.

(b) Legal counsel, including without limitation bond counsel, who shall furnish or cause to be furnished to the commission such opinions, advice, and counsel as may be required, and represent or oversee the representation of the commission in legal matters or hearings, as directed by the commission.

(2) The commission may employ such engineering, technical, legal, administrative, operating, and other personnel, officers, or agents on a regular, part-time, or consulting basis as in its judgment is necessary or beneficial for the discharge of its duties. The commission may fix and provide for the qualification, appointment, removal, term, tenure, compensation, pension, and retirement rights of its officers and employees. Employees of the commission shall be afforded the labor rights and protections afforded public employees under the laws of the state within which the primary place of business is situated.

(3) All privileges and immunities from liability, laws, and benefits that apply to directors, officers, agents, or employees of a municipal corporation under applicable law shall apply to the directors, officers, agents, and employees of the commission.

(4) The commission may purchase insurance or self-insure to protect and hold personally harmless any of its directors, alternate directors, and the officers, employees, and agents of the commission from any action, claim, or proceeding arising out of their performance, purported performance, or failure of performance, in good faith of duties for, or employment with the commission, and to hold these individuals harmless from any expenses connected with the defense, settlement, or monetary judgments from such actions, claims, or proceedings.

(5) The commission may purchase insurance or self-insure against loss or damage to any of its properties or facilities, damage to persons or property, loss of revenues, or such other coverages as the board may elect to accomplish the purposes of the commission. Insurance coverage shall be in such form and amount as the board may determine, provided that it satisfies any requirements of any agreement arising out of issuance of bonds or other obligations by the commission. The board may enter into intergovernmental agreements with any state, or local government, or combination thereof, to acquire or maintain the insurance.

(6) The commission shall furnish such information with respect to its affairs as may be requested by the state of Washington, bordering state, or any local government. The commission shall prepare an annual report which summarizes the major activities and expenditures of the commission during the year and anticipated for the following year. The commission shall furnish a copy of the annual report, together with any additional information deemed appropriate, to the local governments and other interested parties.

(7) Except as described in subsection (8) of this section, the commission shall prepare and adopt a single-year or biennial budget and make appropriations in accordance with this subsection. The commission shall: (a) Establish a budget committee; (b) publish public notice of each meeting of the budget committee; (c) publish public notice and hold a public hearing on the proposed budget before enacting a budget; (d) adopt the budget as it may be amended or revised by the commission, before the start of the budget period; (e) enact such amendments or supplementary budgets during a budget period as the commission may determine are appropriate; and (f) transmit to local area governments a copy of the final budget and any amended or supplementary budgets approved by the commission. In no case may the adopted budget expenditure allowances exceed total estimated revenues unless accompanied by proposed legislation to obtain an equivalent amount of additional revenue. The

commission may adopt, and from time to time, amend a rule that further details the preparation of the budget and the process for its adoption.

(8) A commission is not required to enact a budget for any years in which the commission has no revenue and all revenues and expenditures for the bridge are authorized in a budget of one or more local governments.

**NEW SECTION. Sec. 7.** The commission may:

(1) Finance, refinance, and acquire or otherwise assume control by purchase, lease, donation, or by other means such real and personal property, structures, property rights, franchises, easements, and other property interests, whether situated within the state of Washington or the bordering state, as the board may deem necessary or incidental to the purposes of the commission; and

(2) Exercise the power of eminent domain to acquire by condemnation any property, structures, property rights, franchises, easements, and other property interests situated within the state of Washington or the bordering state as the board deems necessary or incidental to the purposes of the commission, subject to the applicable laws described in section 13(1)(b) of this act. No property owned or held by any state or local government shall be taken by the commission without the prior consent of such state or local government.

**NEW SECTION. Sec. 8.** (1) The board shall have the exclusive power to impose, fix, and periodically adjust the rate of tolls and other charges for use of any bridge owned by or operated by the commission without any approval, authorization, or concurrence by a legislature, state toll authority, local government, state agency or official, or other entity. The board may establish and implement such policies and criteria as the board deems advisable for the rate of tolls and other charges including, but not limited to, establishing discounts, exemptions, administrative fees, late fees, civil penalties, and toll rates for such classes of vehicles and users as the board may determine.

(2) In setting and periodically adjusting toll rates and other charges, the board shall ensure that toll rates and other charges will annually yield revenue sufficient to meet all costs, expenses, and obligations of the commission, including the satisfaction of all financial and other covenants made by the commission with regard to any bond or other debt instrument.

(3) The commission may enter agreements with the Washington state department of licensing and the applicable agency of the bordering state to enforce the payment of tolls and other charges for use of the bridge. Such agreements may provide that if the commission or its designee gives notice to the applicable department that a person has not paid a toll or other charge for use of the bridge, the applicable department shall refuse to renew the motor vehicle registration of the motor vehicle operated by the person at the time of the violation. The applicable department may renew such motor vehicle registration upon receipt of a notice from the commission or its designee indicating that all tolls and other charges owed by the person have been paid.

(4) Photo toll systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only. A photo toll image of a vehicle and the registration plate of the vehicle produced by a photo toll system at the time the driver of the vehicle did not pay a toll is prima facie evidence that the registered owner of the vehicle is the driver of the vehicle. However, if the registered owner of a vehicle

is a person in the vehicle rental or leasing business, the registered owner may elect to identify the person who was operating the vehicle at the time the toll was not paid or to pay the toll, civil penalty, and administrative fee. A registered owner of a vehicle who pays the toll, civil penalty, and administrative fee is entitled to recover the same from the driver, renter, or lessee of the vehicle.

(5) The rights to enforce the payment of tolls and other charges of the commission granted under this chapter are supplemental; the commission may employ all other remedies available to it under the laws of the state of Washington and the bordering state.

(6) The proceeds from toll rates and other charges of the commission shall only be used to pay the necessary and incidental costs and expenses incurred by the commission in connection with owning, constructing, operating, maintaining, renewing, and governing the bridge, which shall include, but not be limited to, costs incurred for:

(a) The design, development, construction, equipping, installation, and financing and refinancing of the bridge, demolition and removal of the existing bridge, and mitigation of associated impacts;

(b) The operations of the bridge including, but not limited to, repair, maintenance, resurfacing, preservation, equipping, improvement, reconstruction, renewal, and replacement;

(c) The tolling of the bridge including, but not limited to, toll collection, administration, and enforcement, and the acquisition, leasing, maintenance, and replacement of tolling equipment and software;

(d) The financing or refinancing of any bonds or other debt instruments of the commission;

(e) A reasonable return on investment for any private financing of any costs, expenses, or obligations of the commission;

(f) The establishment and maintenance of any reserves or sinking funds approved by the board; and

(g) Any other obligations or expenses incurred by the commission in carrying out its purposes under this chapter.

(7) The commission may grant to any public or private entity by franchise, lease, or otherwise the use or control of any portion of the bridge or any property or facility owned or under the control of the commission, and may fix the terms, conditions, rents, and other payments for such use.

(8) All revenues, receipts, grants, bond proceeds, and other funds of the commission may be comingled and spent to carry out commission purposes within either state, unless and to the extent otherwise restricted by the terms of a grant agreement or debt instrument.

(9) For purposes of this section, "photo toll system" means the system defined in RCW 47.56.010 and 47.46.020.

**NEW SECTION. Sec. 9.** (1) The commission shall design and construct the bridge to standards and specifications satisfactory to the departments of transportation, and in accordance with all applicable permits, clearances, and mitigation requirements. The commission shall arrange for timely review by the departments of transportation of all pertinent engineering plans, specifications, and related reports.

(2) The commission may undertake any construction activities that have necessary permits and for which funding is available, provided that prior to

issuing a notice to proceed with the construction of any bridge foundation, the commission shall:

(a) Prepare and adopt an initial bridge finance plan to fund the design, construction, operations, maintenance, administration, and governance of the bridge. Prior to adopting the initial bridge finance plan, the board shall require a feasibility review of the initial bridge finance plan and shall submit the feasibility review to the departments of transportation and the local governments for their review as determined by the board. Following the review by the departments of transportation and local governments, the board may adopt the initial bridge finance plan, as it may be amended as a result of the reviews. Following the adoption of the initial bridge finance plan, the board may periodically adjust or amend the bridge finance plan as the board may determine; and

(b) Make and enter into a written agreement with the owner of the applicable existing bridge, under such terms and conditions as may be acceptable to the commission and the owner of the existing bridge, regarding the removal and disposition of the existing bridge. The agreement shall address: (i) The roles, responsibilities, and obligations of the parties with respect to the removal and disposal of the existing bridge, including any liabilities or potential liabilities incidental thereto; (ii) the retirement of any outstanding debt for which toll revenue from the existing bridge is pledged; (iii) the distribution of proceeds from any salvage value of the existing bridge; (iv) the disposition of any property, equipment, or other assets incidental to the existing bridge; (v) mitigation of impacts to existing bridge operations; and (vi) such other matters as the commission and owner of the existing bridge may determine.

(3) For purposes of the acquisition, design, construction, installation, operation, or maintenance of the bridge, or any combination thereof, the commission, without any prior or subsequent authorization, approval, or concurrence by any state, local government, or any other governmental entity of either state, may enter into any combination of contracts, agreements, or other arrangements with any one or more private entities or units of government, or any combination thereof, as the commission may elect including, but not limited to, any alternative or supplemental public works contract such as design-build and construction manager-general contractor contracts, public-private partnership agreement, lease agreement, franchise agreement, or financing agreement, and may include such terms and conditions as permitted under the constitutions of both states and the parties may agree to.

(4) As part of the construction of a bridge, the commission shall demolish, remove, and dispose of the applicable existing bridge in accordance with all applicable environmental permits and the terms of an agreement between the commission and owner of the existing bridge. Unless otherwise agreed to by the owner of the existing bridge, the proceeds from the sale of any salvaged materials from the existing bridge shall be owing to such owner.

(5) A commission is deemed a municipal corporation for the purposes of RCW 82.04.050(10), and therefore the public road construction exemption under RCW 82.04.050(10) shall apply to taxes otherwise owing from construction of a bridge. Subject to section 16 of this act, the commission may apply for a deferral of all state and local sales and use taxes incurred from

construction of a bridge that are not relieved by the public road construction exemption.

**NEW SECTION. Sec. 10.** (1) The board shall have the exclusive power to enact and enforce such rules and regulations as the board may elect for the use, operations, maintenance, inspection, and preservation of any bridge owned or operated by the commission, including limiting loads permitted on the bridge and closing the bridge to any traffic deemed unsafe by the commission, provided the commission shall comply with all state and federal regulations generally applicable to bridge operations, maintenance, safety, and inspections.

(2) Any facility or property owned, leased, operated, or controlled by the commission may be operated by the commission directly, or by another public or a private entity pursuant to a contract, lease, or agreement that is subject to such terms and conditions as the board may determine.

(3) Compensation to a contractor under an operating contract may be in the form of a payment by the commission to the contractor for services rendered, a payment by the contractor to the commission for the rights to operate the facility or property, or such other arrangements as the board may elect.

(4) A state agency or local government may pledge or grant revenue or other assistance to support or guaranty, in whole or part, the repayment of debt, costs of operations, or capitalization of reserves of the commission under such terms as the commission and the state agency or local government may agree, and the commission may accept such assistance.

**NEW SECTION. Sec. 11.** (1) The commission may, from time to time, without the necessity of any assent by electors, local governments, or any other governmental entity, issue or enter into revenue bonds or other debt instruments paid from or secured by all or any revenues available to the commission in one or more series, and such amounts, maturities, denominations, and forms, with such insurance, credit enhancements, or other guarantees, and with such other terms and provisions as the board may determine.

(2) If the applicable laws pursuant to section 13 of this act are those of the state of Washington, the commission may from time to time issue and sell:

(a) Revenue bonds or other debt instruments on the same basis as a local government in accordance with chapter 39.46 RCW, provided, notwithstanding RCW 39.46.070(1), such bonds or other debt instruments issued by the commission for the construction of a bridge under this act may include capitalized interest for up to 72 months from the date of issuance;

(b) Debt instruments to refund outstanding debt instruments on the same basis as a public body under the refunding bond act, chapter 39.53 RCW; and

(c) Short-term obligations on the same basis as a municipal corporation in accordance with chapter 39.50 RCW.

(3) The commission may enter into one or more agreements with a federal agency for grants, loans, advances, credit enhancements, or other contributions subject to the applicable federal law, and need not comply with contrary state statutes that may otherwise apply.

(4) For the benefit of any holders of bonds or debt instruments that are outstanding or otherwise authorized by the commission:

(a) The board shall continue in effect toll rates and other charges that satisfy the provisions of this act and the covenants made by the commission, and shall not take any action or inaction to impair its ability to do so; and

(b) The state of Washington, or any political subdivision, district, or municipality thereof, shall not take any action that impairs, diminishes, or affects adversely the interest and rights of the holders of bonds or debt instruments of the commission.

**NEW SECTION. Sec. 12.** Notwithstanding anything in the laws of either state to the contrary, the commission shall not be required to pay any tax or assessment, or any in lieu of tax or assessment, by either state, or by any political subdivision, municipality, or district thereof including, but not limited to, any property tax, sales and use tax, or other tax or assessment upon real or personal property acquired or otherwise under the control of the commission, or upon any activity or expenditure of the commission, or upon the revenues of the commission, except to the extent that a municipal corporation would be subject to such a tax or assessment.

**NEW SECTION. Sec. 13.** (1) The commission shall be governed by applicable federal law, this chapter, rules adopted by the board under this chapter, and in the manner of a municipal corporation under the following state and local laws:

(a) Except as provided in (b) and (c) of this subsection, the commission and its board, officials, employees, and agents, shall be governed by the laws of the primary place of business. Such laws include, but are not limited to, laws pertaining to local government audits, financial administration, and accounting requirements; public records; prohibitions on using facilities for campaign purposes; open public meetings; the code of ethics for municipal officers; the rights of public employees; and local government whistleblower protection.

(b) The real estate transactions of, and exercise of eminent domain by, the commission, including relocation assistance; compliance with land use, environmental, and building codes; and such other actions of the commission pertaining to the ownership, control, or use of a particular property site or area as the board may determine by rule shall be governed by the laws of the state and local government within which the particular property site or area is situated.

(c) If there is a conflict between a provision of an otherwise applicable state or local law and a provision of this chapter, this chapter shall govern, and the conflicting provision in state or local law is inapplicable to the commission.

(2) The court of original jurisdiction for any action brought by or against the commission is the court designated pursuant to applicable law.

**NEW SECTION. Sec. 14.** (1) The grantee for any federal, state, or local grant for a bridge owned or to be owned by the commission that was awarded before the formation date of the commission shall remain the grantee until such grant is closed under the terms of the grant agreement, unless otherwise agreed to by the grantee and the commission. The governing body of the grantee shall oversee the work under the grant, however, the grantee shall coordinate with the commission, and not take any actions inconsistent with the policy direction of the commission, unless required by the terms of the grant agreement. Following the formation date of the commission, the commission shall be the applicant and grantee for all federal, state, or local grants for the bridge, unless the commission

otherwise agrees. The commission shall establish procedures for the timely coordination of its activities with the states and local governments.

(2) The departments of transportation and local governments are authorized to enter agreements with the commission to furnish it with surveys, engineering, plans, and specifications, construction management, project controls, operations, administration, and other technical services, the cost of which shall be reimbursed by the commission.

(3) The commission may fund its activities before the receipt of tolls or other charges in any manner permitted by applicable law including, but not limited to:

(a) Borrowing funds from the federal government, either or both states, any local government, or any combination thereof, and repaying such borrowings following the opening of the bridge with the proceeds of tolls and other charges for use of the bridge, or in such other manner as the parties may agree;

(b) Being a direct grantee of any federal, state, or local government grant; and

(c) Receiving moneys as a subrecipient of a federal, state, or local government grant for which a department or local government is the grantee. To the extent permitted by the grant agreement, the departments of transportation and local governments may enter into agreements with the commission to make any portion of such grant funds available to the commission under such terms and conditions as the parties may agree to.

(4) The commission may from time to time assign or otherwise convey any of its properties, facilities, funds, accounts, obligations, or duties to any department, local government, or combination thereof, provided such assignment or conveyance does not in any manner impair or affect adversely the interests or rights of the holders of any bonds or other debt instruments of the commission, and the department or local government may, in its discretion, accept such assignment or conveyance.

(5) The commission may be dissolved as follows:

(a) Before the issuance of any bonds or other debt instrument of the commission, the board may enact a resolution to dissolve the commission at any time it determines the dissolution is in the public interest. The dissolution resolution shall address the methods by which all liabilities and obligations of the commission will be satisfied before the effective date of the dissolution, provided that all liabilities incurred by the commission shall be satisfied exclusively from the assets and properties of the commission and no creditor or other person shall have any right of action against any local government that formed the commission on account of any debts, obligations, or liabilities of the commission. The dissolution resolution shall also address the distribution and transference to local governments of any properties or other assets of the commission that may remain after the satisfaction of all commission liabilities, and such other matters as the board may elect. A resolution to dissolve the commission may not take effect until at least a majority of the local governments in each state agree in writing to the resolution; and

(b) Following the issuance of any bonds or other debt instruments of the commission, or in the event of the insolvency of the commission, the superior court or circuit court of the county of the primary place of business shall have jurisdiction and authority to appoint trustees or receivers of commission property



and assets and supervise such trusteeship or receivership, provided that all liabilities incurred by the commission shall be satisfied exclusively from the assets and properties of the commission and no creditor or other person shall have any right of action against any local government that formed the commission on account of any debts, obligations, or liabilities of the commission. In the event the commission is dissolved and properties or assets of the commission remain after the satisfaction of all of its outstanding debts, obligations, or liabilities, the remaining property and assets of the commission shall be transferred to local governments in accordance with an order issued by the superior court or circuit court of the county of the primary place of business. The allocation and transfer of the remaining properties and assets of the commission to local governments shall be in such manner as the court determines is equitable and serves the public interest.

**NEW SECTION. Sec. 15.** (1) This chapter is liberally construed to effectuate the purposes of the commission, and the powers and authority granted to the commission under this chapter are deemed supplemental to all other powers and authorities granted to municipal corporations under applicable law.

(2) If any provision of this chapter, or its application to any person or circumstance, is held to be invalid, all other provisions of this chapter, and the application of all of its provisions to all other persons and circumstances, shall remain valid, and to this end the provisions of this chapter are severable.

(3) No legal challenge to the formation of the commission intended to be authorized or created pursuant to this chapter may be commenced more than 30 days after the effective date of the commission formation agreement.

**NEW SECTION. Sec. 16.** (1)(a) Any person involved in the construction of a bridge under this chapter may apply for deferral of state and local sales and use taxes on the site preparation for, the construction of, the acquisition of any related machinery and equipment that will become a part of, and the rental of equipment for use in, the bridge.

(b) Applications shall be made to the department of revenue in a form and manner prescribed by the department of revenue. The application must contain information regarding estimated or actual costs, time schedules for completion and operation, and other information required by the department of revenue. The department of revenue shall approve the application within 60 days if it meets the requirements of this section.

(2) The department of revenue shall issue a sales and use tax deferral certificate for state and local sales and use taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW and RCW 81.104.170 on the bridge.

(3) A person granted a tax deferral under this section shall begin paying the deferred taxes in the fifth year after the date certified by the department of revenue as the date on which the bridge is operationally complete. The project is operationally complete under this section upon notification in writing by the commission to the department of revenue that the bridge is constructed and opened to traffic. The first payment is due on December 31st of the fifth calendar year after the certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment shall equal 10 percent of the deferred tax.

(4) The department of revenue may authorize an accelerated repayment schedule upon request of a person granted a deferral under this section.

(5) Interest shall not be charged on any taxes deferred under this section for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this section. The debt for deferred taxes is not extinguished by insolvency or other failure of any private entity granted a deferral under this section.

(6) Applications and any other information received by the department of revenue under this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section.

(7) A public road contractor who applies for a deferral may not invoice a commission for sales and use taxes until after the taxes have been paid to the department of revenue.

(8) The provisions of RCW 82.32.805 and 82.32.808 do not apply to this section.

(9) For purposes of this section, "person" has the same meaning as in RCW 82.04.030 and also includes a commission under this chapter.

**NEW SECTION. Sec. 17.** The office of the attorney general must give notice that the condition in section 3(1) of this act has been met to the transportation committees of the house of representatives and senate and the office of the code reviser.

**Sec. 18.** RCW 47.56.860 and 2008 c 122 s 2 are each amended to read as follows:

This subchapter applies only to all state toll bridges and other state toll facilities, excluding the Washington state ferries, first authorized within this state after July 1, 2008. However, this subchapter does not apply to bridges under chapter 47.--- RCW (the new chapter created in section 19 of this act).

**NEW SECTION. Sec. 19.** Sections 1 through 17 of this act constitute a new chapter in Title 47 RCW.

Passed by the Senate February 8, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 90

[Senate Bill 5565]

### FIRE DISTRICTS AND REGIONAL FIRE AUTHORITIES—TREASURER FUNCTIONS

AN ACT Relating to allowing fire districts and regional fire authorities to carry out certain treasurer functions; and amending RCW 52.16.010, 52.16.020, 52.16.050, and 52.26.090.

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

**Sec. 1.** RCW 52.16.010 and 1989 c 63 s 24 are each amended to read as follows:

(1) It is the duty of the county treasurer of the county in which all, or the largest portion of, any fire protection district created under this title is located to receive and disburse district revenues, to collect taxes and assessments authorized and levied under this title, and to credit district revenues to the proper

fund. However, where a fire protection district is located in more than one county, the county treasurer of each other county in which the district is located shall collect the fire protection district's taxes and assessments that are imposed on property located within the county and transfer these funds to the county treasurer of the county in which the largest portion of the district is located.

(2) The board of commissioners of a district with more than \$10,000,000 in annual revenues for the preceding three consecutive years may designate by resolution some other person having experience in financial or fiscal matters as the treasurer of the district. Such a treasurer shall possess all of the powers, responsibilities, and duties of, and shall be subject to the same restrictions as provided by law for, the county treasurer with regard to a district and the county auditor with regard to district financial matters.

**Sec. 2.** RCW 52.16.020 and 1984 c 230 s 39 are each amended to read as follows:

In each county in which a fire protection district is situated, there shall be in the county treasurer's office of each district the following funds: (1) Expense fund; (2) reserve fund; (3) local improvement district No. . . . fund; (4) general obligation bond fund; and (5) such other funds as the board of commissioners of the district may establish. Taxes levied for administrative, operative, and maintenance purposes and for the purchase of firefighting and emergency medical equipment and apparatus and for the purchase of real property, when collected, and proceeds from the sale of general obligation bonds shall be placed by the ((~~county~~)) treasurer in the proper fund. Taxes levied for the payment of general obligation bonds and interest thereon, when collected, shall be placed by the ((~~county~~)) treasurer in the general obligation bond fund. The board of fire commissioners may include in its annual budget items of possible outlay to be provided for and held in reserve for any district purpose, and taxes shall be levied therefor. Such taxes, when collected, shall be placed by the ((~~county~~)) treasurer in the reserve fund. The reserve fund, or any part of it, may be transferred by the ((~~county~~)) treasurer to other funds of the district at any time by order of the board of fire commissioners. Special assessments levied against the lands in any improvement district within the district, when collected, shall be placed by the ((~~county~~)) treasurer in the local improvement district fund for the local improvement district.

**Sec. 3.** RCW 52.16.050 and 2002 c 165 s 1 are each amended to read as follows:

(1) Except as provided in subsections (2) ((~~and~~)), (3), and (4) of this section, the county treasurer shall pay out money received for the account of the district on warrants issued by the county auditor against the proper funds of the district. The warrants shall be issued on vouchers approved and signed by a majority of the district board and by the district secretary.

(2) The board of fire commissioners of a district that had an annual operating budget of five million or more dollars in each of the preceding three years may by resolution adopt a policy to issue its own warrants for payment of claims or other obligations of the fire district. The board of fire commissioners, after auditing all payrolls and bills, may authorize the issuing of one general certificate to the county treasurer, to be signed by the chair of the board of fire commissioners, authorizing the county treasurer to pay all the warrants specified

by date, number, name, and amount, and the accounting funds on which the warrants shall be drawn; thereupon the district secretary may issue the warrants specified in the general certificate.

(3) The board of fire commissioners of a district that had an annual operating budget of greater than two hundred fifty thousand dollars and under five million dollars in each of the preceding three years may upon agreement between the county treasurer and the fire district commission, with approval of the fire district commission by resolution, adopt a policy to issue its own warrants for payment of claims or other obligations of the fire district. The board of fire commissioners, after auditing all payrolls and bills, may authorize the issuing of one general certificate to the county treasurer, to be signed by the chair of the board of fire commissioners, authorizing the county treasurer to pay all the warrants specified by date, number, name, and amount, and the accounting funds on which the warrants shall be drawn. The district secretary may then issue the warrants specified in the general certificate.

(4) Fire districts that have appointed a treasurer, other than the county treasurer under RCW 52.16.010(2), shall pay out money received for the account of the district on warrants issued by the district against the proper funds of the district. The warrants shall be issued on vouchers approved and signed by a majority of the district board and by the district secretary.

(5) The ((~~county~~)) treasurer may also pay general obligation bonds and the accrued interest thereon in accordance with their terms from the general obligation bond fund when interest or principal payments become due. The ((~~county~~)) treasurer shall report in writing monthly to the secretary of the district the amount of money held by the county in each fund and the amounts of receipts and disbursements for each fund during the preceding month.

**Sec. 4.** RCW 52.26.090 and 2006 c 200 s 6 are each amended to read as follows:

(1) The governing board of the authority is responsible for the execution of the voter-approved plan. Participating jurisdictions shall review the plan every ten years. The board may:

(a) Levy taxes and impose benefit charges as authorized in the plan and approved by authority voters;

(b) Enter into agreements with federal, state, local, and regional entities and departments as necessary to accomplish authority purposes and protect the authority's investments;

(c) Accept gifts, grants, or other contributions of funds that will support the purposes and programs of the authority;

(d) Monitor and audit the progress and execution of fire protection and emergency service projects to protect the investment of the public and annually make public its findings;

(e) Pay for services and enter into leases and contracts, including professional service contracts;

(f) Hire, manage, and terminate employees; and

(g) Exercise powers and perform duties as the board determines necessary to carry out the purposes, functions, and projects of the authority in accordance with ((~~Title 52 RCW~~)) this title if one of the fire protection jurisdictions is a fire district, unless provided otherwise in the regional fire protection service

authority plan, or in accordance with the statutes identified in the plan if none of the fire protection jurisdictions is a fire district.

(2) An authority with more than \$10,000,000 in annual revenues for the preceding three years, or an authority that is being formed by participating jurisdictions that cumulatively had more than \$10,000,000 in annual revenues for three years prior to the formation of the authority, may designate by resolution some other person having experience in financial or fiscal matters as the treasurer of the authority. Such a treasurer shall possess all of the powers, responsibilities, and duties of, and shall be subject to the same restrictions as provided by law for, the county treasurer with regard to a fire district and the county auditor with regard to district financial matters under chapter 52.16 RCW and other applicable statutes.

(3) An authority may enforce fire codes as provided under chapter 19.27 RCW.

Passed by the Senate February 2, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 91

[Substitute Senate Bill 5590]

### MARINE RESOURCES ADVISORY COUNCIL—EXPIRATION DATE

AN ACT Relating to eliminating the 2022 expiration date of the marine resources advisory council; amending RCW 43.06.338; creating a new section; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** The legislature finds that the marine resources advisory council, first established in 2013, continues to serve an important role in confronting the ongoing threat of ocean acidification in Washington. Through the marine resources advisory council and the work that it supports, Washington is an academic, government, and industry leader in efforts to address the impacts of ocean acidification. It is the intent of the legislature to support the continued critical ocean acidification work of the marine resources advisory council.

**Sec. 2.** RCW 43.06.338 and 2016 sp.s. c 27 s 1 are each amended to read as follows:

(1) The Washington marine resources advisory council is created within the office of the governor.

(2) The Washington marine resources advisory council is composed of:

(a) The governor, or the governor's designee, who shall serve as the chair of the council;

(b) The commissioner of public lands, or the commissioner's designee;

(c) Two members of the senate, appointed by the president of the senate, one from each of the two largest caucuses in the senate;

(d) Two members of the house of representatives, appointed by the speaker of the house of representatives, one from each of the two largest caucuses in the house of representatives;

(e) One representative of federally recognized Indian tribes with reservations lying within or partially within counties bordering the outer coast, if

selected by action of all of the governing bodies of all federally recognized Indian tribes in such an area;

(f) One representative of federally recognized Indian tribes with reservations lying within or partially within counties bordering Puget Sound, if selected by action of all of the governing bodies of all federally recognized Indian tribes in such an area;

(g) One representative of each of the following sectors, appointed by the governor:

(i) Commercial fishing;

(ii) Recreational fishing;

(iii) Marine recreation and tourism, other than fishing;

(iv) Coastal shellfish growers;

(v) Puget Sound shellfish growers;

(vi) Marine businesses; and

(vii) Conservation organizations;

(h) The chair of the Washington state conservation commission, or the chair's designee;

(i) One representative appointed by the largest statewide general agricultural association;

(j) One representative appointed by the largest statewide business association;

(k) The chair of the Washington coastal marine advisory council;

(l) The chair of the leadership council of the Puget Sound partnership;

(m) The director of the department of ecology;

(n) The director of the department of fish and wildlife; and

(o) The chair of the Northwest Straits commission.

(3) The governor shall invite the participation of the following entities as nonvoting members:

(a) The national oceanic and atmospheric administration; and

(b) Academic institutions conducting scientific research on ocean acidification.

(4) The governor shall make the appointments of the members under subsection (2)(g) of this section by September 1, 2013.

(5) Any member appointed by the governor may be removed by the governor for cause.

(6) A majority of the voting members of the Washington marine resources advisory council constitute a quorum for the transaction of business.

(7) The chair of the Washington marine resources advisory council shall schedule meetings and establish the agenda. The first meeting of the council must be scheduled by November 1, 2013. The council shall meet at least twice per calendar year. At each meeting the council shall afford an opportunity to the public to comment upon agenda items and other matters relating to the protection and conservation of the state's ocean resources.

(8) The Washington marine resources advisory council shall have the following powers and duties:

(a) To maintain a sustainable coordinated focus, including the involvement of and the collaboration among all levels of government and nongovernmental entities, the private sector, and citizens by increasing the state's ability to work to address impacts of ocean acidification;

(b) To advise and work with the University of Washington and others to conduct ongoing technical analysis on the effects and sources of ocean acidification. The recommendations must identify a range of actions necessary to implement the recommendations and take into consideration the differences between in-state impacts and sources and out-of-state impacts and sources;

(c) To deliver recommendations to the governor and appropriate committees in the Washington state senate and house of representatives that must include, as necessary, any minority reports requested by a councilmember;

(d) To seek public and private funding resources necessary, and the commitment of other resources, for ongoing technical analysis to support the council's recommendations; and

(e) To assist in conducting public education activities regarding the impacts of and contributions to ocean acidification and regarding implementation strategies to support the actions adopted by the legislature.

(9) This section expires June 30, (~~2022~~) 2032.

Passed by the Senate February 14, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 92

[Substitute Senate Bill 5678]

### INVESTOR-OWNED UTILITIES—CLEAN ENERGY TRANSFORMATION ACT— DECLARATORY ORDERS

AN ACT Relating to energy transformation, nonemitting electric generation, and renewable resource project analysis and declaratory orders; and adding new sections to chapter 19.405 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 19.405 RCW to read as follows:

(1) An investor-owned utility may petition the commission for a declaratory order pursuant to RCW 34.05.240 to determine whether a proposed energy transformation project, nonemitting electric generation project, or renewable resource project meets the requirements of RCW 19.405.040 (1) through (3) and 19.405.050 (1) and (5).

(2) The petition for a declaratory order must be in writing and must include information that accurately describes the proposed project.

(3) A project that the commission has determined under this section to comply with the requirements of RCW 19.405.040 (1) through (3) or 19.405.050 (1) and (5) may be identified in an investor-owned utility's clean energy action plan under RCW 19.280.030(2) and the utility's clean energy implementation plan under RCW 19.405.060(1).

(4) If an investor-owned utility seeks approval of a resource or project in a clean energy implementation plan under RCW 19.405.060, or in a proceeding to set rates, that the commission has previously determined under this section complies with the requirements of RCW 19.405.040 (1) through (3) or 19.405.050 (1) and (5) and the resource or project deviates substantively from the one described in the commission's determination in a manner that affects the

resource's or project's potential compliance with RCW 19.405.040 (1) through (3) or 19.405.050 (1) and (5), the commission may reevaluate the resource or project to determine if it complies.

**NEW SECTION. Sec. 2.** A new section is added to chapter 19.405 RCW to read as follows:

(1) The commission may require an applicant to pay an application fee for a declaratory order requested under section 1 of this act. The amount of the fee must be set by the commission to solely cover the cost of reviewing the project and preparing a declaratory order, including a legal analysis.

(2) Nothing in section 1 of this act preempts the authority of the commission from making a determination, independent of the processes under section 1 of this act, on whether a proposed energy transformation project, nonemitting electric generation project, or renewable resource project, under RCW 19.405.040 and 19.405.050, meets the planning and portfolio requirements of an investor-owned utility's clean energy implementation plan under this chapter.

(3) A declaratory order issued under section 1 of this act does not by itself determine the prudence associated with an energy transformation project, nonemitting electric generation project, or renewable resource project.

(4) Nothing in section 1 of this act may be construed to require an investor-owned utility to seek an order declaring whether the proposed resource or project complies with the requirements of RCW 19.405.040 (1) through (3) or 19.405.050 (1) and (5).

Passed by the Senate February 12, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 93

[Senate Bill 5713]

### LIMITED EQUITY COOPERATIVE HOUSING—PROPERTY TAX EXEMPTION

AN ACT Relating to providing a property tax exemption for limited equity cooperative housing; amending RCW 84.36.800, 84.36.805, 84.36.810, and 84.36.815; adding a new section to chapter 84.36 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) This section is the tax preference performance statement for the tax preference contained in section 2, chapter . . . , Laws of 2022 (section 2 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 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 financially incentivize the formation and utilization of limited equity cooperatives, and to increase the availability of housing available to low-income households. It is the legislature's intent to exempt from taxation any real property owned by a limited



equity cooperative when a majority of the property is used and occupied by low-income households.

(4)(a) To measure the effectiveness of the tax preference provided in section 2 of this act in achieving the specific public policy objectives described in subsection (3) of this section, the joint legislative audit and review committee must evaluate, two years prior to the expiration of the tax preference: (i) Growth in the formation and utilization of limited equity cooperatives; (ii) growth in available units of affordable housing within limited equity cooperatives; and (iii) any other metric the joint legislative audit and review committee determines is relevant to measuring success of this exemption.

(b) If the review by the joint legislative audit and review committee finds that growth in the formation and utilization of limited equity cooperatives or growth in available units of affordable housing within limited equity cooperatives has occurred, then 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:

(a) Initial applications for the preference as approved by the department of revenue under RCW 84.36.815;

(b) Annual financial statements for a limited equity cooperative claiming this tax preference; and

(c) Any other data necessary for the evaluation under subsection (4) of this section.

**NEW SECTION. Sec. 2.** A new section is added to chapter 84.36 RCW to read as follows:

(1) The real property owned by a limited equity cooperative that provides owned housing for low-income households is exempt from property taxation if:

(a) The benefit of the exemption inures to the limited equity cooperative and its members;

(b) At least 85 percent of the occupied dwelling units in the limited equity cooperative is occupied by members of the limited equity cooperative determined as of January 1st of each assessment year for which the exemption is claimed;

(c) At least 95 percent of the property for which the exemption is sought is used for dwelling units or other noncommercial uses available for use by the members of the limited equity cooperative; and

(d) The housing was 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 or state housing program administered by the federal department of housing and urban development;

(iii) A federal housing program administered by a city or county government;

(iv) An affordable housing levy authorized under RCW 84.52.105;

(v) The surcharges authorized by RCW 36.22.178 and 36.22.179 and any of the surcharges authorized in chapter 43.185C RCW; or

(vi) The Washington state housing finance commission.

(2) If less than 100 percent of the dwelling units within the limited equity cooperative is occupied by low-income households, the limited equity cooperative is eligible for a partial exemption on the real property. The amount of exemption must be calculated by multiplying the assessed value of the property owned by the limited equity cooperative by a fraction. The numerator of the fraction is the number of dwelling units occupied by low-income households as of January 1st of each assessment year for which the exemption is claimed, and the denominator of the fraction is the total number of dwelling units as of such date.

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

(a) "Cooperative" has the meaning provided in RCW 64.90.010.

(b)(i) "Limited equity cooperative" means a cooperative subject to the Washington uniform common interest ownership act under chapter 64.90 RCW that owns the real property for which an exemption is sought under this section and for which, following the completion of the development or redevelopment of such real property:

(A) Members are prevented from selling their ownership interests other than to a median-income household; and

(B) Members are prevented from selling their ownership interests for a sales price that exceeds the sum of:

(I) The sales price they paid for their ownership interest;

(II) The cost of permanent improvements they made to the dwelling unit during their ownership;

(III) Any special assessments they paid to the limited equity cooperative during their ownership to the extent utilized to make permanent improvements to the building or buildings in which the dwelling units are located; and

(IV) A three percent annual noncompounded return on the above amounts.

(ii) For the purposes of this subsection (3)(b), "sales price" is the total consideration paid or contracted to be paid to the seller or to another for the seller's benefit.

(c) "Low-income household" means a single person, family, or unrelated persons living together whose income is at or below 80 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 housing is located and in effect as of January 1st of the year in which the determination is to be made as to whether the single person, family, or unrelated persons living together qualify as a low-income household.

(d) "Median-income household" means a single person, family, or unrelated persons living together whose income is at or below 100 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 housing is located and in effect as of January 1st of the year in which the determination is to be made as to whether the single person, family, or unrelated persons living together qualify as a median-income household.

(e) "Members" of a limited equity cooperative means individuals or entities that have an ownership interest in the limited equity cooperative that entitles them to occupy and sell a dwelling unit in the limited equity cooperative.

**Sec. 3.** RCW 84.36.800 and 1998 c 311 s 24 are each amended to read as follows:

As used in this chapter:

(1) "Church purposes" means the use of real and personal property owned by a nonprofit religious organization for religious worship or related administrative, educational, eleemosynary, and social activities. This definition is to be broadly construed;

(2) "Convent" means a house or set of buildings occupied by a community of clergy or nuns devoted to religious life under a superior;

(3) "Hospital" means any portion of a hospital building, or other buildings in connection therewith, used as a residence for persons engaged or employed in the operation of a hospital, or operated as a portion of the hospital unit;

(4)(a) "Nonprofit" means an organization, association or corporation no part of the income of which is paid directly or indirectly to its members, stockholders, officers, directors or trustees except in the form of services rendered by the organization, association, or corporation in accordance with its purposes and bylaws and the salary or compensation paid to officers of such organization, association or corporation is for actual services rendered and compares to the salary or compensation of like positions within the public services of the state;

(b) "Nonprofit" also means a limited equity cooperative as defined in section 2 of this act;

(5) "Parsonage" means a residence occupied by a member of the clergy who has been designated for a particular congregation and who holds regular services therefor.

**Sec. 4.** RCW 84.36.805 and 2016 c 217 s 3 are each amended to read as follows:

(1) In order to qualify for an exemption under this chapter, the nonprofit organizations, associations, or corporations must satisfy the conditions in this section.

(2) The property must be used exclusively for the actual operation of the activity for which exemption is granted, unless otherwise provided, and does not exceed an amount reasonably necessary for that purpose. Notwithstanding anything to the contrary in this section:

(a) The loan or rental of the property does not subject the property to tax if:

(i) The rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and

(ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037, 84.36.050, and 84.36.060(1) (a) and (b), the property would be exempt from tax if owned by the organization to which it is loaned or rented;

(b) The use of the property for fund-raising events does not subject the property to tax if the fund-raising events are consistent with the purposes for which the exemption is granted or are conducted by a nonprofit organization. If the property is loaned or rented to conduct a fund-raising event, the requirements of (a) of this subsection (2) apply;

(c) An inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted does not subject the property to tax, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed

when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

(3) The facilities and services must be available to all regardless of race, color, national origin or ancestry.

(4) The organization, association, or corporation must be duly licensed or certified where such licensing or certification is required by law or regulation.

(5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller does not qualify for exempt status. This subsection does not apply to ~~((property))~~ :

(a) Limited equity cooperatives as defined in section 2 of this act; or

(b) Property sold to a nonprofit entity, as defined in RCW 84.36.560~~((7))~~, by:

~~((a))~~ (i) A nonprofit as defined in RCW 84.36.800 that is exempt from income tax under 26 U.S.C. Sec. 501(c) of the federal internal revenue code;

~~((b))~~ (ii) A governmental entity established under RCW 35.21.660, 35.21.670, or 35.21.730;

~~((c))~~ (iii) A housing authority created under RCW 35.82.030;

~~((d))~~ (iv) A housing authority meeting the definition in RCW 35.82.210(2)(a); or

~~((e))~~ (v) A housing authority established under RCW 35.82.300.

(6) The department must have access to its books in order to determine whether the nonprofit organization, association, or corporation is exempt from taxes under this chapter.

(7) This section does not apply to exemptions granted under RCW 84.36.020, 84.36.032, 84.36.250, 84.36.049, and 84.36.480(2).

(8)(a) The use of property exempt under this chapter, other than as specifically authorized by this chapter, nullifies the exemption otherwise available for the property for the assessment year. However, the exemption is not nullified by the use of the property by any individual, group, or entity, where such use is not otherwise authorized by this chapter, for not more than ~~((fifty))~~ 50 days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than ~~((fifteen))~~ 15 of the ~~((fifty))~~ 50 days in each calendar year. The ~~((fifty))~~ 50 and ~~((fifteen))~~ 15-day limitations provided in this subsection (8)(a) do not include days during which setup and takedown activities take place immediately preceding or following a meeting or other event by an individual, group, or entity using the property as provided in this subsection (8)(a).

(b) If uses of the exempt property exceed the ~~((fifty))~~ 50 and ~~((fifteen))~~ 15-day limitations provided in (a) of this subsection (8) during an assessment year, the exemption is removed for the affected portion of the property for that assessment year.

**Sec. 5.** RCW 84.36.810 and 2006 c 305 s 4 are each amended to read as follows:

(1)(a) Upon cessation of a use under which an exemption has been granted pursuant to RCW 84.36.030, 84.36.037, 84.36.040, 84.36.041, 84.36.042, 84.36.043, 84.36.046, 84.36.050, 84.36.060, 84.36.550, 84.36.560, 84.36.570, section 2 of this act, and 84.36.650, except as provided in (b) of this subsection, the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the three years preceding, or the life of such

exemption, if such be less, together with the interest at the same rate and computed in the same way as that upon delinquent property taxes. If the property has been granted an exemption for more than ~~((ten))~~ 10 consecutive years, taxes and interest shall not be assessed under this section.

(b) Upon cessation of use by an institution of higher education of property exempt under RCW 84.36.050(2) the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the seven years preceding, or the life of the exemption, whichever is less.

(2) Subsection (1) of this section applies only when ownership of the property is transferred or when ~~((fifty-one))~~ 51 percent or more of the area of the property loses its exempt status. The additional tax under subsection (1) of this section shall not be imposed if the cessation of use resulted solely from:

(a) Transfer to a nonprofit organization, association, or corporation for a use which also qualifies and is granted exemption under this chapter;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Official action by an agency of the state of Washington or by the county or city within which the property is located which disallows the present use of such property;

(d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the organization, association, or corporation changing the use of such property;

(e) Relocation of the activity and use of another location or site except for undeveloped properties of camp facilities exempted under RCW 84.36.030;

(f) Cancellation of a lease on leased property that had been exempt under this chapter;

(g) A change in the exempt portion of a home for the aging under RCW 84.36.041(3), as long as some portion of the home remains exempt; or

(h) Transfer to an agency of the state of Washington or the city or county within which the property is located.

(3) Subsection (2)(e) and (f) of this section ~~((do not))~~ does not apply to property leased to a state institution of higher education and exempt under RCW 84.36.050(2).

**Sec. 6.** RCW 84.36.815 and 2020 c 273 s 2 are each amended to read as follows:

(1) In order to qualify for exempt status for any real or personal property under this chapter except personal property under RCW 84.36.600, all foreign national governments; cemeteries; nongovernmental nonprofit corporations, organizations, and associations; hospitals owned and operated by a public hospital district for purposes of exemption under RCW 84.36.040(2); and soil and water conservation districts must file an initial application on or before March 31st with the state department of revenue. However, the initial application deadline for the exemption provided in RCW 84.36.049 is July 1st for 2016 and March 31st for 2017 and thereafter. All applications must be filed on forms prescribed by the department and must be signed by an authorized agent of the applicant.

(2)(a) In order to requalify for exempt status, all applicants except nonprofit cemeteries and nonprofits receiving the exemption under RCW 84.36.049 and

nonprofits receiving the exemptions under RCW 84.36.560 or section 2 of this act must file an annual renewal declaration on or before March 31st each year. The renewal declaration must be on forms prescribed by the department of revenue and must contain a statement certifying the exempt status of the real or personal property owned by the exempt organization. This renewal declaration may be submitted electronically in a format provided or approved by the department. Information may also be required with the renewal declaration to assist the department in determining whether the property tax exemption should continue.

(b) In order to requalify for exempt status, nonprofits receiving the exemptions under RCW 84.36.560 or section 2 of this act must file a renewal declaration on or before March 31st of every third year following initial qualification for the exemption. Except for the annual renewal requirement, all other requirements of (a) of this subsection apply.

(3) When an organization acquires real property qualified for exemption or converts real property to exempt status, the organization must file an initial application for the property within sixty days following the acquisition or conversion in accordance with all applicable provisions of subsection (1) of this section. If the application is filed after the expiration of the (~~sixty~~) 60-day period, a late filing penalty is imposed under RCW 84.36.825.

(4) When organizations acquire real property qualified for exemption or convert real property to an exempt use, the property, upon approval of the application for exemption, is entitled to a property tax exemption for property taxes due and payable the following year. If the owner has paid taxes for the year following the year the property qualified for exemption, the owner is entitled to a refund of the amount paid on the property so acquired or converted.

(5) The department must share approved initial applications for the tax preferences provided in RCW 84.36.049 and section 2 of this act with the joint legislative audit and review committee, upon request by the committee, in order for the committee to complete its review of the tax preferences provided in RCW 84.36.049 and section 2 of this act.

NEW SECTION. Sec. 7. This act applies to taxes levied for collection in 2023 through 2032.

NEW SECTION. Sec. 8. Sections 2 through 6 of this act expire January 1, 2033.

Passed by the Senate March 7, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 94

[Second Substitute Senate Bill 5736]

### BEHAVIORAL HEALTH—MINORS—PARTIAL HOSPITALIZATIONS AND INTENSIVE OUTPATIENT TREATMENT SERVICES

AN ACT Relating to partial hospitalizations and intensive outpatient treatment services for minors; reenacting and amending RCW 71.24.385; and creating a new section.

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

**Sec. 1.** RCW 71.24.385 and 2019 c 325 s 1023 and 2019 c 264 s 6 are each reenacted and amended to read as follows:

(1) Within funds appropriated by the legislature for this purpose, behavioral health administrative services organizations and managed care organizations, as applicable, shall develop the means to serve the needs of people:

(a) With mental disorders residing within the boundaries of their regional service area. Elements of the program may include:

- (i) Crisis diversion services;
- (ii) Evaluation and treatment and community hospital beds;
- (iii) Residential treatment;
- (iv) Programs for intensive community treatment;
- (v) Outpatient services, including family support;
- (vi) Peer support services;
- (vii) Community support services;
- (viii) Resource management services; ~~((and))~~

(ix) Partial hospitalization and intensive outpatient programs for persons under 21 years of age; and

(x) Supported housing and supported employment services.

(b) With substance use disorders and their families, people incapacitated by alcohol or other psychoactive chemicals, and intoxicated people.

(i) Elements of the program shall include, but not necessarily be limited to, a continuum of substance use disorder treatment services that includes:

- (A) Withdrawal management;
- (B) Residential treatment; and
- (C) Outpatient treatment.

(ii) The program may include peer support, supported housing, supported employment, crisis diversion, recovery support services, or technology-based recovery supports.

(iii) The authority may contract for the use of an approved substance use disorder treatment program or other individual or organization if the director considers this to be an effective and economical course to follow.

(2)(a) The managed care organization and the behavioral health administrative services organization shall have the flexibility, within the funds appropriated by the legislature for this purpose and the terms of their contract, to design the mix of services that will be most effective within their service area of meeting the needs of people with behavioral health disorders and avoiding placement of such individuals at the state mental hospital. Managed care organizations and behavioral health administrative services organizations are encouraged to maximize the use of evidence-based practices and alternative resources with the goal of substantially reducing and potentially eliminating the use of institutions for mental diseases.

(b) Managed care organizations and behavioral health administrative services organizations may allow reimbursement to providers for services delivered through a partial hospitalization or intensive outpatient program. Such payment and services are distinct from the state's delivery of wraparound with intensive services under the *T.R. v. Strange and Birch* settlement agreement.

(3)(a) Treatment provided under this chapter must be purchased primarily through managed care contracts.

(b) Consistent with RCW 71.24.580, services and funding provided through the criminal justice treatment account are intended to be exempted from managed care contracting.

NEW SECTION. Sec. 2. Pursuant to approval by the centers for medicare and medicaid services to implement services not covered under the existing social security Title XIX state plan, the health care authority shall take the steps necessary to add coverage for partial hospitalization and intensive outpatient services for persons under 21 years of age to the medicaid state plan by January 1, 2024.

Passed by the Senate February 11, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 95

[Substitute Senate Bill 5749]

### RESIDENTIAL TENANTS—RENT PAYMENTS

AN ACT Relating to rent payments made by residential and manufactured housing community tenants; amending RCW 59.18.063, 59.20.134, and 59.20.060; and reenacting and amending RCW 59.18.230.

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

**Sec. 1.** RCW 59.18.063 and 2020 c 315 s 3 are each amended to read as follows:

(1) A landlord must accept a personal check, cashier's check, or money order for any payment of rent made by a tenant, except that a landlord is not required to accept a personal check from any tenant that has had a personal check written to the landlord or the landlord's agent that has been returned for nonsufficient funds or account closure within the previous nine months. A landlord must also allow for the tenant to submit a rental payment by mail unless the landlord provides an accessible, on-site location.

(2) A landlord may refuse to accept cash for any payment of rent made by a tenant, but shall provide a receipt for any payment made by a tenant in the form of cash when the landlord accepts cash.

~~((2))~~ (3) A landlord shall provide, upon the request of a tenant, a written receipt for any payments made by the tenant in a form other than cash.

**Sec. 2.** RCW 59.18.230 and 2021 c 212 s 5 and 2021 c 115 s 15 are each reenacted and amended to read as follows:

(1)(a) Any provision of a lease or other agreement, whether oral or written, whereby any section or subsection of this chapter is waived except as provided in RCW 59.18.360 and shall be deemed against public policy and shall be unenforceable. Such unenforceability shall not affect other provisions of the agreement which can be given effect without them.

(b) Any agreement, whether oral or written, between a landlord and tenant, or their representatives, and entered into pursuant to an unlawful detainer action under this chapter that requires the tenant to pay any amount in violation of RCW 59.18.283 or the statutory judgment amount limits under RCW 59.18.410 (1) or (2), or waives any rights of the tenant under RCW 59.18.410 or any other



rights afforded under this chapter except as provided in RCW 59.18.360 is void and unenforceable. A landlord may not threaten a tenant with eviction for failure to pay nonpossessory charges limited under RCW 59.18.283.

(2) No rental agreement may provide that the tenant:

(a) Agrees to waive or to forgo rights or remedies under this chapter; or

(b) Authorizes any person to confess judgment on a claim arising out of the rental agreement; or

(c) Agrees to pay the landlord's attorneys' fees, except as authorized in this chapter; or

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith; or

(e) And landlord have agreed to a particular arbitrator at the time the rental agreement is entered into; or

(f) Agrees to pay late fees for rent that is paid within five days following its due date. If rent is more than five days past due, the landlord may charge late fees commencing from the first day after the due date until paid. Nothing in this subsection prohibits a landlord from serving a notice to pay or vacate at any time after the rent becomes due; or

(g) Agrees to make rent payments through electronic means only.

(3) A provision prohibited by subsection (2) of this section included in a rental agreement is unenforceable. If a landlord knowingly uses a rental agreement containing provisions known by him or her to be prohibited, the tenant may recover actual damages sustained by him or her, statutory damages not to exceed two times the monthly rent charged for the unit, costs of suit, and reasonable attorneys' fees.

(4) The common law right of the landlord of distress for rent is hereby abolished for property covered by this chapter. Any provision in a rental agreement creating a lien upon the personal property of the tenant or authorizing a distress for rent is null and void and of no force and effect. Any landlord who takes or detains the personal property of a tenant without the specific written consent of the tenant to such incident of taking or detention, and who, after written demand by the tenant for the return of his or her personal property, refuses to return the same promptly shall be liable to the tenant for the value of the property retained, actual damages, and if the refusal is intentional, may also be liable for damages of up to \$500 per day but not to exceed \$5,000, for each day or part of a day that the tenant is deprived of his or her property. The prevailing party may recover his or her costs of suit and a reasonable attorneys' fee.

In any action, including actions pursuant to chapters 7.64 or 12.28 RCW, brought by a tenant or other person to recover possession of his or her personal property taken or detained by a landlord in violation of this section, the court, upon motion and after notice to the opposing parties, may waive or reduce any bond requirements where it appears to be to the satisfaction of the court that the moving party is proceeding in good faith and has, prima facie, a meritorious claim for immediate delivery or redelivery of said property.

**Sec. 3.** RCW 59.20.134 and 2011 c 168 s 1 are each amended to read as follows:

(1) A landlord must accept a personal check, cashier's check, or money order for any payment of rent made by a tenant, except that a landlord is not required to accept a personal check from any tenant that has had a personal check written to the landlord or the landlord's agent that has been returned for nonsufficient funds or account closure within the previous nine months. A landlord must also allow for the tenant to submit a rental payment by mail unless the landlord provides an accessible, on-site location.

(2) A landlord shall provide a written receipt for any payment made by a tenant in the form of cash.

~~((2))~~ (3) A landlord shall provide, upon the request of a tenant, a written receipt for any payments made by the tenant in a form other than cash.

**Sec. 4.** RCW 59.20.060 and 2019 c 390 s 17 are each amended to read as follows:

(1) Any mobile home space tenancy regardless of the term, shall be based upon a written rental agreement, signed by the parties, which shall contain:

(a) The terms for the payment of rent, including time and place, and any additional charges to be paid by the tenant. Additional charges that occur less frequently than monthly shall be itemized in a billing to the tenant;

(b) Reasonable rules for guest parking which shall be clearly stated;

(c) The rules and regulations of the park;

(d) The name and address of the person who is the landlord, and if such person does not reside in the state there shall also be designated by name and address a person who resides in the county where the mobile home park is located who is authorized to act as agent for the purposes of service of notices and process. If no designation is made of a person to act as agent, then the person to whom rental payments are to be made shall be considered the agent;

(e) The name and address of any party who has a secured interest in the mobile home, manufactured home, or park model;

(f) A forwarding address of the tenant or the name and address of a person who would likely know the whereabouts of the tenant in the event of an emergency or an abandonment of the mobile home, manufactured home, or park model;

(g)(i) A covenant by the landlord that, except for acts or events beyond the control of the landlord, the mobile home park will not be converted to a land use that will prevent the space that is the subject of the lease from continuing to be used for its intended use for a period of three years after the beginning of the term of the rental agreement;

(ii) A rental agreement may, in the alternative, contain a statement that: "The park may be sold or otherwise transferred at any time with the result that subsequent owners may close the mobile home park, or that the landlord may close the park at any time after the required closure notice as provided in RCW 59.20.080." The covenant or statement required by this subsection must: (A) Appear in print that is in bold face and is larger than the other text of the rental agreement; (B) be set off by means of a box, blank space, or comparable visual device; and (C) be located directly above the tenant's signature on the rental agreement;

(h) A copy of a closure notice, as required in RCW 59.20.080, if such notice is in effect;

(i) The terms and conditions under which any deposit or portion thereof may be withheld by the landlord upon termination of the rental agreement if any moneys are paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a rental agreement;

(j) A listing of the utilities, services, and facilities which will be available to the tenant during the tenancy and the nature of the fees, if any, to be charged together with a statement that, in the event any utilities are changed to be charged independent of the rent during the term of the rental agreement, the landlord agrees to decrease the amount of the rent charged proportionately;

(k) A written description, picture, plan, or map of the boundaries of a mobile home space sufficient to inform the tenant of the exact location of the tenant's space in relation to other tenants' spaces;

(l) A written description, picture, plan, or map of the location of the tenant's responsibility for utility hook-ups, consistent with RCW 59.20.130(6);

(m) A statement of the current zoning of the land on which the mobile home park is located;

(n) A statement of the expiration date of any conditional use, temporary use, or other land use permit subject to a fixed expiration date that is necessary for the continued use of the land as a mobile home park; and

(o) A written statement containing accurate historical information regarding the past five years' rental amount charged for the lot or space.

(2) Any rental agreement executed between the landlord and tenant shall not contain any provision:

(a) Which allows the landlord to charge a fee for guest parking unless a violation of the rules for guest parking occurs: PROVIDED, That a fee may be charged for guest parking which covers an extended period of time as defined in the rental agreement;

(b) Which authorizes the towing or impounding of a vehicle except upon notice to the owner thereof or the tenant whose guest is the owner of the vehicle;

(c) Which allows the landlord to alter the due date for rent payment or increase the rent: (i) During the term of the rental agreement if the term is less than two years, or (ii) more frequently than annually if the initial term is for two years or more: PROVIDED, That a rental agreement may include an escalation clause for a pro rata share of any increase in the mobile home park's real property taxes or utility assessments or charges, over the base taxes or utility assessments or charges of the year in which the rental agreement took effect, if the clause also provides for a pro rata reduction in rent or other charges in the event of a reduction in real property taxes or utility assessments or charges, below the base year: PROVIDED FURTHER, That a rental agreement for a term exceeding two years may provide for annual increases in rent in specified amounts or by a formula specified in such agreement. Any rent increase authorized under this subsection (2)(c) that occurs within the closure notice period pursuant to RCW 59.20.080(1)(e) may not be more than one percentage point above the United States consumer price index for all urban consumers, housing component, published by the United States bureau of labor statistics in the periodical "Monthly Labor Review and Handbook of Labor Statistics" as established annually by the department of commerce;

(d) By which the tenant agrees to waive or forego rights or remedies under this chapter;

(e) Allowing the landlord to charge an "entrance fee" or an "exit fee." However, an entrance fee may be charged as part of a continuing care contract as defined in RCW 70.38.025;

(f) Which allows the landlord to charge a fee for guests: PROVIDED, That a landlord may establish rules charging for guests who remain on the premises for more than fifteen days in any (~~sixty-day~~) 60-day period;

(g) By which the tenant agrees to waive or forego homestead rights provided by chapter 6.13 RCW. This subsection shall not prohibit such waiver after a default in rent so long as such waiver is in writing signed by the husband and wife or by an unmarried claimant and in consideration of the landlord's agreement not to terminate the tenancy for a period of time specified in the waiver if the landlord would be otherwise entitled to terminate the tenancy under this chapter; (~~or~~)

(h) By which, at the time the rental agreement is entered into, the landlord and tenant agree to the selection of a particular arbitrator; or

(i) By which the tenant agrees to make rent payments through electronic means only.

(3) Any provision prohibited under this section that is included in a rental agreement is unenforceable.

Passed by the Senate March 7, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 96

[Senate Bill 5750]

### WASHINGTON STATE LEADERSHIP BOARD—TRUSTEE OF THE STATE

AN ACT Relating to designating the Washington state leadership board a trustee of the state of Washington; amending RCW 43.15.030, 43.15.020, 43.15.095, and 43.15.100; reenacting and amending RCW 46.68.420; adding a new chapter to Title 43 RCW; creating a new section; recodifying RCW 43.15.030, 43.15.040, and 43.15.100; and providing an effective date.

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

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

(1) The Washington state leadership board has been a nonprofit organization with significant, vested interest in the improvement of Washington state through their service and dedication to marginalized students and their ability to bestow honors on behalf of the state.

(2) There has been a lack of substantive extracurricular activities for historically marginalized students in Washington state to be involved in, and the Washington state leadership board has created equitable and accessible programs for marginalized students to succeed. The Washington state leadership board bridges the gap between student accessibility and student achievement by utilizing public and private funds to create three unique programs for marginalized students: The Washington world fellows program, boundless Washington program, and compassion scholars program.

(3) The Washington world fellows program is a global leadership development program that provides students who may lack access with training that enhances high school academics, supports their trajectory into college, and

establishes strong leadership traits. The program includes college preparation through research, mentoring, and preparation for college entrance exams, including the opportunity for students to participate in a global leadership exchange experience.

(4) The boundless Washington program provides an opportunity for students with physical and sensory disabilities to develop leadership skills through the outdoors. Students with physical and sensory disabilities explore the outdoors through immersive excursions that students learn about through online curriculum and practice through outdoor activities with peers.

(5) The compassion scholars program creates life-changing compassion scholars' excursions, with a delegation that includes students, elected officials, and community leaders, that focus on highlighting for high school students the positive work of public servants that have dedicated themselves to improving their community.

(6) The Washington state leadership board has bestowed honors like the Washingtonian of the year and the organization of the year on behalf of the state for over 45 years.

**Sec. 2.** RCW 43.15.030 and 2021 c 176 s 5222 are each amended to read as follows:

(1) The Washington state leadership board is ~~((organized as a private, nonprofit, nonpartisan corporation in accordance with chapter 24.03A RCW and this section))~~ designated a trustee for the state of Washington.

(2) The purpose of the Washington state leadership board is to:

(a) Provide the state a means of extending formal recognition for an individual's outstanding services to the state; and

~~(b) ((Bring together those individuals to serve the state as ambassadors of trade, tourism, and international goodwill; and~~

~~(e)))~~ Expand educational, sports, leadership, and/or employment opportunities for youth, veterans, and people with disabilities in Washington state by administering the following programs:

(i) Washington world fellows;

(ii) Sports mentoring;

(iii) Boundless Washington; and

(iv) Compassion scholars.

(3) The Washington state leadership board may conduct activities in support of their mission.

(4)(a) The Washington state leadership board is governed by a board of directors. The board of directors is composed of the governor, the lieutenant governor, and the secretary of state, who serve as ex officio, nonvoting members, and other officers and members as the Washington state leadership board designates. In addition, four legislators may be appointed to the board of directors as ex officio members in the following manner: One legislator from each of the two largest caucuses of the senate, appointed by the president of the senate, and one legislator from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives.

(b) The Washington state leadership board shall appoint its executive director with the consent of the lieutenant governor. The lieutenant governor may remove an executive director for cause if a majority of the Washington state leadership board votes for removal.

(5) The board of directors shall adopt bylaws and establish governance and transparency policies.

(6) The lieutenant governor's office may provide (~~((technical and financial assistance))~~) facilities and administrative support for the Washington state leadership board, where the work of the board aligns with the mission of the office. Assistance from the lieutenant governor's office may include, but is not limited to:

(a) Collaboration with the Washington state leadership board on the Washington world fellows program, a college readiness and study abroad fellowship (~~((administered by the office of the lieutenant governor))~~);

(b) (~~((Beginning January 1, 2019, collaboration))~~) Collaboration with the Washington state leadership board to administer the sports mentoring program as established under RCW 43.15.100 (as recodified by this act), a mentoring program to encourage underserved youth to join sports or otherwise participate in the area of sports. If approved by the board of directors, boundless Washington, an outdoor leadership program for young people with disabilities, shall satisfy the terms of the sports mentoring program; and

(c) The compilation of a yearly financial report, which shall be made available to the appropriate committees of the legislature no later than January 15th of each year, detailing all revenues and expenditures associated with the Washington world fellows program and the sports mentoring program. (~~((Any expenditures made by the Washington state leadership board in support of the Washington world fellows program and the sports mentoring program shall be made available to the office of the lieutenant governor for the purpose of inclusion in the annual financial report.))~~)

(7) The legislature may make appropriations in support of the Washington state leadership board subject to the availability of funds.

(8) The (~~((office of the lieutenant governor))~~) Washington state leadership board must post on its website detailed information on all funds received by the (~~((Washington state leadership))~~) board and all expenditures by the (~~((Washington state leadership))~~) board.

NEW SECTION. Sec. 3. (1) The Washington state leadership board account is created in the state treasury. All receipts from appropriations 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 the purposes of this chapter.

(2)(a) The Washington state leadership board special license plate account is created in the custody of the state treasurer. All receipts from special license plate disposition under RCW 46.68.420 must be deposited into the account. Expenditures from the account may be used only for the purposes of this chapter. Only the executive director of the Washington state leadership board or the executive 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.

(b) The Washington state leadership board special license plate account may accept gifts, grants, or endowments from public and private sources that are made in trust or otherwise for the use and benefit of the purposes of this chapter.

**Sec. 4.** RCW 46.68.420 and 2020 c 129 s 3 and 2020 c 93 s 3 are each reenacted and amended to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under RCW 46.17.220;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle fund until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fee amounts for each special license plate to the following appropriate account as created in this section in the custody of the state treasurer:

ACCOUNT	CONDITIONS FOR USE OF FUNDS
4-H programs	Support Washington 4-H programs
Fred Hutch	Support cancer research at the Fred Hutchinson cancer research center
Gonzaga University alumni association	Scholarship funds to needy and qualified students attending or planning to attend Gonzaga University
Helping kids speak	Provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development
Law enforcement memorial	Provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers
Lighthouse environmental programs	Support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; provide environmental education programs; provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration; encourage and support interpretive programs by lighthouse docents
Music matters awareness	Promote music education in schools throughout Washington
San Juan Islands programs	Provide funds to the Madrona institute

Seattle Mariners	<p>Provide funds to the sports mentoring program and to support the Washington world fellows program in the following manner: (a) Seventy-five percent to the <del>((office of the lieutenant governor))</del> <u>Washington state leadership board</u> solely to administer the sports mentoring program established under RCW 43.15.100 <u>(as recodified by this act)</u>, to encourage youth who have economic needs or face adversities to experience spectator sports or get involved in youth sports, and (b) up to twenty-five percent to the <del>((office of the lieutenant governor))</del> <u>Washington state leadership board</u> solely to administer the Washington world fellows program, an equity focused program</p>
Seattle NHL hockey	<p>Provide funds to the NHL Seattle foundation and to support the boundless Washington program in the following manner: (a) Fifty percent to the NHL Seattle foundation, or its successor organization, to help marginalized youth succeed in life through increased access to sports and other opportunities; (b) twenty-five percent to the <del>((office of the lieutenant governor))</del> <u>Washington state leadership board</u> solely to administer the boundless Washington program to facilitate opportunities for young people with physical and sensory disabilities to enjoy and experience the outdoors; and (c) twenty-five percent to the NHL Seattle foundation, or its successor organization, for providing financial support to allow youth to participate in hockey</p>
Seattle Seahawks	<p>Provide funds to InvestED and to support the Washington world fellows program in the following manner: (a) Seventy-five percent, to InvestED, to encourage secondary students who have economic needs to stay in school, return to school, or get involved within their learning community; and (b) twenty-five percent to the <del>((office of the lieutenant governor))</del> <u>Washington state leadership board</u> solely to administer the Washington world fellows program, including the provision of fellowships</p>



Seattle Sounders FC	Provide funds to Washington state mentors and the <del>((association of Washington generals created in RCW 43.15.030))</del> <u>Washington state leadership board</u> in the following manner: (a) Seventy percent and the remaining proceeds, if any, to Washington state mentors, to increase the number of mentors in the state by offering mentoring grants throughout Washington state that foster positive youth development and academic success, with up to twenty percent of these proceeds authorized for program administration costs; and (b) up to thirty percent, not to exceed forty-thousand dollars annually as adjusted for inflation by the office of financial management, to the <del>((association of Washington generals))</del> <u>Washington state leadership board</u> , to develop Washington state educational, veterans, international relations, and civics projects and to recognize the outstanding public service of individuals or groups in the state of Washington
Seattle Storm	Provide funds to the Washington state legislative youth advisory council and the <del>((association of Washington generals created in RCW 43.15.030))</del> <u>Washington state leadership board</u> in the following manner: Twenty-five thousand dollars per year of the net proceeds to the legislative youth advisory council, or its successor organization; and the remaining net proceeds on an annual basis, to the <del>((association of Washington generals))</del> <u>Washington state leadership board</u> for the purpose of providing grants to support and enhance athletic, recreational, and other opportunities for women and girls, and especially those with disabilities
Seattle University	Fund scholarships for students attending or planning to attend Seattle University
Share the road	Promote bicycle safety and awareness education in communities throughout Washington
Ski & ride Washington	Promote winter snowsports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs, underprivileged youth ski and ride programs, and active, healthy lifestyle programs

State flower	Support Meerkerk Rhododendron Gardens and provide for grants to other qualified nonprofit organizations' efforts to preserve rhododendrons
Volunteer firefighters	Receive and disseminate funds for purposes on behalf of volunteer firefighters, their families, and others deemed in need
Washington apples	Provide scholarship funding to the tree fruit industry's official charity, the Washington apple education foundation, which provides financial support, professional employment preparedness training, and mentorship to students with ties to the apple industry pursuing a higher education
Washington farmers and ranchers	Provide funds to the Washington FFA Foundation for educational programs in Washington state
Washington state aviation	Provide funds to the department of transportation to support infrastructure improvements at public use airports in Washington state
Washington state council of firefighters benevolent fund	Receive and disseminate funds for charitable purposes on behalf of members of the Washington state council of firefighters, their families, and others deemed in need
Washington state wrestling	Provide funds to the Washington state wrestling foundation to fund new and existing college wrestling programs
Washington tennis	Provide funds to cities to assist in the construction and maintenance of a public tennis facility with at least four indoor tennis courts. A city is eligible for construction funds if the city does not already have a public or private facility with at least four indoor tennis courts. Funds for construction must first be made available to the most populous eligible city, according to the most recent census, for a time period not to exceed five years after January 1, 2017. After the five-year time period, the funds for construction must be made available to the next most populous eligible city. Funds for the maintenance of a public tennis facility with at least four indoor tennis courts must first be made available to the first eligible city that utilizes funds for construction provided by chapter 16, Laws of 2016

Washington's national park fund

Build awareness of Washington's national parks and support priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks

We love our pets

Support and enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets in order to reduce pet population

(3) Except as otherwise provided in this section, only the director or the director's designee may authorize expenditures from the accounts described in subsection (2) of this section. The accounts are subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) Except as otherwise provided in this section, funds in the special license plate accounts described in subsection (2) of this section must be disbursed subject to the conditions described in subsection (2) of this section and under contract between the department and qualified nonprofit organizations that provide the services described in subsection (2) of this section.

(5) Funds from the Seattle Seahawks account may be provided to the ~~((lieutenant governor))~~ Washington state leadership board solely for the purpose of administering the Washington world fellows program. Of the amounts received by the ~~((lieutenant governor's office))~~ Washington state leadership board under this subsection, at least ninety percent must be provided as fellowships under the program.

(6) Beginning January 1, 2019, funds from the Seattle Mariners account may be provided to the ~~((office of lieutenant governor))~~ Washington state leadership board solely for the purpose of administering the sports mentoring program. Of the amounts received by the ~~((office of lieutenant governor))~~ Washington state leadership board, at least ninety percent must be applied towards services directly provided to youth participants.

(7) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under 26 U.S.C. Sec. 501(c)(3). The qualified nonprofit organization must meet all the requirements under RCW 46.18.100(1).

**Sec. 5.** RCW 43.15.020 and 2020 c 114 s 5 are each amended to read as follows:

The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

- (1) The lieutenant governor serves on the following boards and committees:
  - (a) Capitol furnishings preservation committee, RCW 27.48.040;
  - (b) Washington higher education facilities authority, RCW 28B.07.030;
  - (c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;
  - (d) State finance committee, RCW 43.33.010;

- (e) State capitol committee, RCW 43.34.010;
- (f) Washington health care facilities authority, RCW 70.37.030;
- (g) State medal of merit nominating committee, RCW 1.40.020;
- (h) Medal of valor committee, RCW 1.60.020; and
- (i) Washington state leadership board, RCW 43.15.030 (as recodified by this act).

(2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:

- (a) Civil legal aid oversight committee, RCW 2.53.010;
- (b) Office of public defense advisory committee, RCW 2.70.030;
- (c) Washington state gambling commission, RCW 9.46.040;
- (d) Sentencing guidelines commission, RCW 9.94A.860;
- (e) State building code council, RCW 19.27.070;
- (f) Financial education public-private partnership, RCW 28A.300.450;
- (g) Joint administrative rules review committee, RCW 34.05.610;
- (h) Capital projects advisory review board, RCW 39.10.220;
- (i) Select committee on pension policy, RCW 41.04.276;
- (j) Legislative ethics board, RCW 42.52.310;
- (k) Washington citizens' commission on salaries, RCW 43.03.305;
- (l) Legislative oral history committee, RCW 44.04.325;
- (m) State council on aging, RCW 43.20A.685;
- (n) State investment board, RCW 43.33A.020;
- (o) Capitol campus design advisory committee, RCW 43.34.080;
- (p) Washington state arts commission, RCW 43.46.015;
- (q) PNWER-Net working subgroup under chapter 43.147 RCW;
- (r) Community economic revitalization board, RCW 43.160.030;
- (s) Washington economic development finance authority, RCW 43.163.020;
- (t) Joint legislative audit and review committee, RCW 44.28.010;
- (u) Joint committee on energy supply and energy conservation, RCW 44.39.015;
- (v) Legislative evaluation and accountability program committee, RCW 44.48.010;
- (w) Washington horse racing commission, RCW 67.16.014;
- (x) Correctional industries board of directors, RCW 72.09.080;
- (y) Joint committee on veterans' and military affairs, RCW 73.04.150;
- (z) Joint legislative committee on water supply during drought, RCW 90.86.020; and
- (aa) Statute law committee, RCW 1.08.001.

**Sec. 6.** RCW 43.15.095 and 2020 c 114 s 23 are each amended to read as follows:

(1) The legislative youth advisory council is established to examine issues of importance to youth, including but not limited to education, employment, strategies to increase youth participation in state and municipal government, safe environments for youth, substance abuse, emotional and physical health, foster care, poverty, homelessness, and youth access to services on a statewide and municipal basis.

(2) The council consists of at least twenty-two members as provided in this subsection who, at the time of appointment, are aged fourteen to eighteen. The council shall select a chair from among its members.

(3) Members shall serve two-year terms and, if eligible, may be reappointed for subsequent two-year terms.

(4)(a) Students may apply annually to be considered for participation in the program by completing an online application form and submitting the application to the legislative youth advisory council. The council may develop selection criteria and an application review process. The council shall recommend candidates whose names will be submitted to the office of the lieutenant governor for final selection. The office of the lieutenant governor shall notify all applicants of the final selections.

(b) The office of the lieutenant governor shall make the application available on the lieutenant governor's website.

(5) Subject to the supervision of the office of the lieutenant governor, the council shall have the following duties:

(a) Advising the legislature on proposed and pending legislation, including state budget expenditures and policy matters relating to youth;

(b) Advising the standing committees of the legislature and study commissions, committees, and task forces regarding issues relating to youth;

(c) Conducting periodic seminars for its members regarding leadership, government, and the legislature;

(d) Accepting and soliciting for grants and donations from public and private sources to support the activities of the council; and

(e) Reporting annually by December 1st to the legislature on its activities, including proposed legislation that implements recommendations of the council.

(6) In carrying out its duties under this section, the council must meet at least three times per year. The council is encouraged to use technology, such as remote videoconferencing technology, to facilitate members' participation in meetings. The council is encouraged to invite local state legislators to participate in the meetings. The council is encouraged to poll other students in order to get a broad perspective on various policy issues. The council is encouraged to use technology to conduct polling.

(7) Members may be reimbursed as provided in RCW 43.03.050 and 43.03.060.

(8) The office of the lieutenant governor shall provide administration, supervision, and facilitation support to the council. In facilitating the program, the office of the lieutenant governor may collaborate with the Washington state leadership board established in RCW 43.15.030 (as recodified by this act). The senate and house of representatives may provide policy and fiscal briefings and assistance with drafting proposed legislation. The senate and the house of representatives shall each develop internal policies relating to staff assistance provided to the council. Such policies may include applicable internal personnel and practices guidelines, resource use and expense reimbursement guidelines, and applicable ethics mandates. Provision of funds, resources, and staff, as well as the assignment and direction of staff, remains at all times within the sole discretion of the chamber making the provision.

(9) The office of the lieutenant governor, the legislature, any agency of the legislature, and any official or employee of such office or agency are immune from liability for any injury that is incurred by or caused by a member of the legislative youth advisory council and that occurs while the member of the council is performing duties of the council or is otherwise engaged in activities

or receiving services for which reimbursement is allowed under subsection (7) of this section. The immunity provided by this subsection does not apply to an injury intentionally caused by the act or omission of an employee or official of the office of the lieutenant governor, the legislature, or any agency of the legislature.

**Sec. 7.** RCW 43.15.100 and 2018 c 67 s 3 are each amended to read as follows:

(1) The sports mentoring program is established to enable eligible nonprofit community-based organizations to provide opportunities for underserved youth to join sports teams or otherwise participate in the area of sports. The goal of the program is to support youth in building self-confidence, developing skills in the areas of goal setting and collaboration, and promoting a healthy lifestyle through forming positive relationships with peers and family, avoiding risky or delinquent behavior, and achieving educational success. Proceeds from the Seattle Mariners special license plate, issued under RCW 46.18.200, must be deposited into the Seattle Mariners account in accordance with RCW 46.68.420. Funds in the account may only be used, except as provided under RCW 46.68.420(6), for grants to support youth to stay in school, participate in sports, and receive mentorships.

(2) ~~The ((office of lieutenant governor will collaborate with the association of Washington generals to))~~ Washington state leadership board may issue competitive grants to eligible organizations. The following criteria must be used to prioritize applications:

(a) Services provided by the organization to program participants are provided without a fee;

(b) Eligible organizations must assist children with enrolling in sports through their parents, guardians, or coach; and

(c) Eligible organizations must provide professional staff support to the mentor, child, and parent.

(3) Eligible organizations must meet the following requirements:

(a) Be a 501(c)(3) nonprofit organization;

(b) Conduct national criminal background checks for all employees and volunteer mentors who work with children;

(c) Have adopted standards for care including staff training, health and safety standards, and mechanisms for assessing and enforcing the program's compliance with the standards adopted;

(d) Ensure that sixty percent or more of the children they serve are eligible for free or reduced-price lunch;

(e) Provide free, direct services to children through volunteer mentoring; and

(f) Provide professional oversight of all mentoring relationships for each child served.

NEW SECTION. **Sec. 8.** RCW 43.15.030, 43.15.040, and 43.15.100 are each recodified as sections in chapter 43.--- RCW (the new chapter created in section 9 of this act).

NEW SECTION. **Sec. 9.** Section 3 of this act constitutes a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 10.** This act takes effect July 1, 2022.

Passed by the Senate February 9, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 97

[Substitute Senate Bill 5756]

### SEMIQUINCENTENNIAL COMMITTEE

AN ACT Relating to establishing the semiquincentennial committee; 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 semiquincentennial committee is established with 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 lieutenant governor, or their designee;

(d) The secretary of state, or their designee;

(e) The superintendent of public instruction, or their designee;

(f) The director of the governor's office of Indian affairs, or their designee;

(g) The director of the Washington state historical society, or their designee;

(h) The director of the eastern Washington state historical society, or their designee;

(i) The director of the department of archaeology and historic preservation, or their designee;

(j) The director of Washington state parks, or their designee;

(k) The director of the department of commerce, or their designee;

(l) The director of the Washington state arts commission, or their designee;

(m) One member selected by the commission on African American affairs;

(n) One member selected by the commission on Asian American affairs;

(o) One member selected by the commission on Hispanic affairs;

(p) One member selected by the LGBTQ commission;

(q) One member selected by the women's commission;

(r) One member representing humanities Washington, appointed by the governor.

(2) The committee may invite additional persons it deems necessary to serve as honorary members of the committee.

(3) The lieutenant governor shall serve as chair of the committee.

**NEW SECTION. Sec. 2.** (1) The semiquincentennial committee shall coordinate and provide guidance for Washington's official observance of the 250th anniversary of the founding of the United States, as marked by the Declaration of Independence in 1776.

(2) The committee may:

(a) Cooperate with national, regional, statewide, and local entities promoting the semiquincentennial;

(b) Assist, plan, or conduct semiquincentennial events;

(c) Support, plan, or produce educational resources and programs related to the semiquincentennial;

(d) Engage in or encourage fundraising activities including revenue-generating enterprises, as well as the solicitation of charitable gifts, grants, or donations;

(e) Coordinate interagency participation in the observance;

(f) Create subcommittees comprised of committee members, honorary members, and community members to further the goals of the committee; and

(g) Perform other related duties.

**NEW SECTION. Sec. 3.** (1) The semiquincentennial committee is attached to the Washington state historical society for administrative purposes. Accordingly, the society shall:

(a) Direct and supervise the budgeting, recordkeeping, reporting, and related administrative and clerical functions of the committee;

(b) Include the committee's budgetary requests in the society's departmental budget;

(c) Collect all nonappropriated revenues for the committee and deposit them in the proper fund or account;

(d) Provide staff support for the committee; and

(e) Print and disseminate for the committee any required notices, rules, or orders adopted by the committee.

(2) The Washington state historical society may employ personnel, contract for services, and receive, expend, and allocate gifts, grants, and donations on behalf of the committee. The society shall expend and allocate any appropriations authorized by the legislature to carry out the purposes of the committee.

**NEW SECTION. Sec. 4.** The semiquincentennial account is created in the custody of the state treasurer. Expenditures from the account may be used only to finance the activities of the semiquincentennial committee. Only the lieutenant governor and the director of the Washington state historical society may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 5.** The semiquincentennial committee shall submit a yearly report of its activities to the legislature.

**NEW SECTION. Sec. 6.** This act expires June 30, 2027.

Passed by the Senate February 2, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 98

[Substitute Senate Bill 5785]

### TRANSITIONAL FOOD ASSISTANCE—SANCTION STATUS

AN ACT Relating to transitional food assistance; amending RCW 74.08A.010; and providing an effective date.



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

**Sec. 1.** RCW 74.08A.010 and 2021 c 239 s 1 are each amended to read as follows:

(1) A family that includes an adult who has received temporary assistance for needy families for sixty months after July 27, 1997, shall be ineligible for further temporary assistance for needy families assistance.

(2) For the purposes of applying the rules of this section, the department shall count any month in which an adult family member received a temporary assistance for needy families cash assistance grant unless the assistance was provided when the adult family member was a minor child and not the head of the household or married to the head of the household.

(3) The department shall adopt regulations to apply the sixty-month time limit to households in which a parent is in the home and ineligible for temporary assistance for needy families. Any regulations shall be consistent with federal funding requirements.

(4) The department shall refer recipients who require specialized assistance to appropriate department programs, crime victims' programs through the department of commerce, or the crime victims' compensation program of the department of labor and industries.

(5)(a) The department shall add to adopted rules related to temporary assistance for needy families time limit extensions, the following criteria by which the department shall exempt a recipient and the recipient's family from the application of subsection (1) of this section:

(i) By reason of hardship, including when:

(A) The recipient's family includes a child or youth who is without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter VI, part B) as it existed on January 1, 2020; or

(B) The recipient received temporary assistance for needy families during a month on or after March 1, 2020, when Washington state's unemployment rate as published by the Washington employment security department was equal to or greater than seven percent, and the recipient is otherwise eligible for temporary assistance for needy families except that they have exceeded 60 months. The extension provided for under this subsection (5)(a)(i)(B) is equal to the number of months that the recipient received temporary assistance for needy families during a month after March 1, 2020, when the unemployment rate was equal to or greater than seven percent, and is applied sequentially to any other hardship extensions that may apply under this subsection (5) or in rule; or

(ii) If the family includes an individual who meets the family violence options of section 402(A)(7) of Title IVA of the federal social security act as amended by P.L. 104-193.

(b) Policies related to circumstances under which a recipient will be exempted from the application of subsection (1) or (3) of this section shall treat adults receiving benefits on their own behalf, and parents receiving benefits on behalf of their child similarly, unless required otherwise under federal law.

(6) The department shall not exempt a recipient and his or her family from the application of subsection (1) or (3) of this section until after the recipient has received fifty-two months of assistance under this chapter.

(7) The department shall provide transitional food assistance for a period of five months to a household that ceases to receive temporary assistance for needy families assistance and is not in 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.

NEW SECTION. Sec. 2. This act takes effect January 1, 2024.

Passed by the Senate February 11, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

## CHAPTER 99

[Senate Bill 5787]

### LINKED DEPOSIT PROGRAM—MODIFICATION

AN ACT Relating to the linked deposit program; amending RCW 43.86A.030, 43.86A.040, and 43.86A.050; and reenacting and amending RCW 43.86A.060.

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

**Sec. 1.** RCW 43.86A.030 and 2010 c 139 s 1 are each amended to read as follows:

(1)(a) The state treasurer shall make funds available for a ~~((time certificate of deposit))~~ surplus funds investment program according to the following formula: The state treasurer shall apportion to all participating depositaries an amount equal to five percent of the three year average mean of general state revenues as certified in accordance with Article VIII, section 1(b) of the state Constitution, or fifty percent of the total surplus treasury investment availability, whichever is less. Within thirty days after certification, an amount equal to those funds determined to be available according to this formula for the ~~((time certificate of deposit))~~ surplus funds investment program shall be available for deposit in qualified public depositaries. These funds shall be allocated among the participating depositaries on a basis to be determined by the state treasurer.

(b) The funds made available by the treasurer for a ~~((time certificate of deposit))~~ surplus funds investment program under (a) of this subsection (1) may be provided from either treasury surplus funds or funds held pursuant to chapter 43.250 RCW.

(2) Of all state funds available under this section, the state treasurer may use up to one hundred seventy-five million dollars per year for the purposes of RCW 43.86A.060(2)(c) (i) and (iii) and up to fifteen million dollars per year for the purposes of RCW 43.86A.060(2)(c)(ii). The amounts made available to these public depositaries shall be equal to the amounts of outstanding loans made under RCW 43.86A.060.

(3) The formula so devised shall be a matter of public record giving consideration to, but not limited to, deposits, assets, loans, capital structure, investments, or some combination of these factors. However, if in the judgment of the state treasurer the amount of allocation for ~~((certificates of deposit))~~ the surplus funds investment program as determined by this section will impair the

cash flow needs of the state treasury, the state treasurer may adjust the amount of the allocation accordingly.

(4) Deposits and interest accrued thereon made through the surplus funds investment program must be protected against loss pursuant to RCW 39.58.020.

**Sec. 2.** RCW 43.86A.040 and 1973 c 123 s 4 are each amended to read as follows:

Except as provided in RCW 43.86A.020 and 43.86A.030, nothing in this chapter shall be construed as a limitation upon the powers of the state treasurer to determine the amount of surplus treasury funds which may be invested (~~(in time certificates of deposit)~~).

**Sec. 3.** RCW 43.86A.050 and 1973 c 123 s 5 are each amended to read as follows:

The state treasurer shall devise the necessary formulae and methodology to implement the provisions of this chapter. Periodically, but at least once every six months, the state treasurer shall review all rules and shall adopt, amend or repeal them as may be necessary. These rules and a list of (~~(time certificate of deposit)~~) surplus funds investment allocations shall be published in the treasurer's monthly financial report as required under the provisions of RCW 43.08.150.

**Sec. 4.** RCW 43.86A.060 and 2009 c 385 s 3 and 2009 c 384 s 1 are each reenacted and amended to read as follows:

(1) The state treasurer shall establish a linked deposit program for investment of (~~(deposits)~~) surplus treasury funds in qualified public depositories. As a condition of participating in the program, qualified public depositories must make qualifying loans as provided in this section. The state treasurer may purchase (~~(a certificate of deposit)~~) an investment instrument that is equal to the amount of the qualifying loan made by the qualified public depository or may purchase (~~(a certificate of deposit)~~) an investment instrument that is equal to the aggregate amount of two or more qualifying loans made by one or more qualified public depositories.

(2) Qualifying loans made under this section are those:

- (a) Having terms that do not exceed ten years;
- (b) Where an individual loan does not exceed one million dollars;

(c)(i) That are made to a minority or women's business enterprise that has received state certification under chapter 39.19 RCW;

(ii) That are made to a veteran-owned business that has received state certification under RCW 43.60A.190; or

(iii) That are made to a community development financial institution that is: (A) Certified by the United States department of the treasury pursuant to 12 U.S.C. Sec. 4701 et seq.; and (B) using that loan to make qualifying loans under (c)(i) of this subsection;

(d) Where the interest rate on the loan to the minority or women's business enterprise or veteran-owned business does not exceed an interest rate that is two hundred basis points below the interest rate the qualified public depository would charge for a loan for a similar purpose and a similar term, except that, if the preference given by the state treasurer to the qualified public depository under subsection (3) of this section is less than two hundred basis points, the qualified public depository may reduce the preference given on the loan by an

amount that corresponds to the reduction in preference below two hundred basis points given to the qualified public depository; and

(e) Where the points or fees charged at loan closing do not exceed one percent of the loan amount.

(3) In setting interest rates of (~~(time certificate of deposits)~~) surplus funds invested for the linked deposit program, the state treasurer shall offer rates so that a two hundred basis point preference will be given to the qualified public depository, except that the treasurer may lower the amount of the preference to ensure that the effective interest rate on the deposit is not less than zero percent.

(4) Upon notification by the state treasurer that a minority or women's business enterprise is no longer certified under chapter 39.19 RCW or that a veteran-owned business is no longer certified under RCW 43.60A.190, the qualified public depository shall reduce the amount of qualifying loans by the outstanding balance of the loan made under this section to the minority or women's business enterprise or the veteran-owned business, as applicable.

(5) The office of minority and women's business enterprises has the authority to adopt rules to:

(a) Ensure that when making a qualified loan under the linked deposit program, businesses that have never received a loan under the linked deposit program are given first priority;

(b) Limit the total principal loan amount that any one business receives in qualified loans under the linked deposit program over the lifetime of the businesses;

(c) Limit the total principal loan amount that an owner of one or more businesses receives in qualified loans under the linked deposit program during the owner's lifetime;

(d) Limit the total amount of any one qualified loan made under the linked deposit program; and

(e) Ensure that loans made by community development financial institutions are qualifying loans under subsection (2)(c)(i) of this section.

Passed by the Senate January 28, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 100

[Substitute Senate Bill 5838]

### TEMPORARY ASSISTANCE FOR NEEDY FAMILIES—MONTHLY DIAPER SUBSIDY

AN ACT Relating to providing a monthly diaper subsidy for parents or other caregivers receiving temporary assistance for needy families; adding a new section to chapter 74.12 RCW; creating new sections; and providing an effective date.

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

NEW SECTION. Sec. 1. (1) The legislature finds that diapers are a necessity for every infant. Additionally, the majority of early child care programs require an adequate supply of diapers for child attendance, but, with the exception of early head start, do not provide diapers to families in need.

(2) The legislature further finds that families unable to afford an adequate supply of diapers may provide less frequent diaper changes to their child to maximize their supply of diapers. The failure to provide adequate diaper changes is associated with an increased rate of diaper dermatitis and urinary tract infection. Further, there are links between diaper need and increased parenting stress. Children whose parents manifest high levels of stress or depression are at greater risk of social, emotional, and behavioral problems.

(3) Therefore, the legislature intends to reduce parenting stress and increase parenting sense of competency by directing the department of social and health services to provide a monthly diaper subsidy to families with children under three who are otherwise eligible for temporary assistance for needy families, thereby improving parenting quality and overall child outcomes.

**NEW SECTION. Sec. 2.** A new section is added to chapter 74.12 RCW to read as follows:

(1) Subject to funds appropriated for this specific purpose, to assist with child-related necessities such as diapers, the department may make additional monthly payments to recipients with children under the age of three who are otherwise eligible for and receiving temporary assistance for needy families.

(2) The department shall set the benefit amounts in rule in accordance with available funds appropriated for this purpose.

(3) The department shall make reasonable efforts to ensure timely communication to families of the new subsidy at implementation and as the diaper subsidy eligibility changes.

**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, 2022, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 4.** This act takes effect November 1, 2023.

Passed by the Senate February 10, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 101

[Substitute Senate Bill 5862]

### COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY AND RESILIENCY PROGRAM— MODIFICATION

AN ACT Relating to technical changes to the commercial property assessed clean energy and resiliency program; amending RCW 36.165.060; and declaring an emergency.

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

**Sec. 1.** RCW 36.165.060 and 2020 c 27 s 7 are each amended to read as follows:

(1) The C-PACER lien amount plus any interest, penalties, and charges accrued or accruing on the C-PACER lien:

(a) Takes precedence over all other liens or encumbrances except a lien for taxes imposed by the state, a local government, or a junior taxing district on real property, which liens for taxes shall have priority over such benefit C-PACER

lien, provided existing mortgage holders, if any, have provided written consent described in RCW 36.165.070; and

(b) Is a first and prior lien, second only to a lien for taxes imposed by the state, a local government, or a junior taxing district against the real property on which the C-PACER lien is imposed, from the date on which the notice of the C-PACER lien is recorded until the C-PACER lien, interest, penalties, and charges accrued or accruing are paid.

(2) The C-PACER lien runs with the land, and that portion of the C-PACER lien that has not yet become due is not accelerated or eliminated by foreclosure of the C-PACER lien or any lien for taxes imposed by the state, a local government, or junior taxing district against the real property on which the C-PACER lien is imposed.

(3) Delinquent installments due on a C-PACER lien incur interest and penalties as specified in the financing agreement.

(4) After the C-PACER lien is recorded as provided in this section, the voluntary assessment and the C-PACER lien may not be contested on the basis that the improvement is not a qualified improvement or that the project is not a qualified project.

(5) ~~((Collection))~~ Billing, collection, and enforcement of delinquent C-PACER liens or C-PACER ~~((financing installment payments, including foreclosure, shall remain))~~ assessment installments, including through foreclosure as set forth in subsection (6) of this section, are the responsibility of the capital provider.

(6) ~~((The C-PACER lien shall be enforced by the capital provider at any time after one year from the date of delinquency in the same manner that the collection of delinquent real property taxes is enforced by the county under chapter 84.64 RCW, including the provisions of RCW 84.64.040, excepting that a sworn declaration by the capital provider or assignee attesting to the assessment delinquency of at least one year shall be used in lieu of the certificate required under RCW 84.64.050))~~ (a) The assessment and C-PACER lien shall be assigned by the county to the capital provider at the close of any approved C-PACER financing by the county, as provided in RCW 36.165.050(3). The C-PACER lien, as assigned to the capital provider shall maintain the same precedence and priority and characteristics set forth in this section. The C-PACER lien may be enforced with respect to delinquent C-PACER assessment installments by the capital provider at any time after one year from the date of delinquency, and may be foreclosed in the same manner as a mortgage lien under chapter 61.12 RCW, except that no sale of the property shall discharge or in any manner affect the priority of the C-PACER lien with respect to installments not yet due and payable at the time of sale, as provided in subsections (1)(b) and (2) of this section, and no deficiency judgment may be sought by the capital provider with respect to any unpaid assessment at the time of sale. The participation of the county sheriff in any such foreclosure action shall not be deemed in violation of, or inconsistent with, the provisions of this chapter limiting the role of the county in the enforcement of a C-PACER lien.

(b) In a foreclosure proceeding to collect delinquent C-PACER assessment installments and enforce a C-PACER lien, the capital provider shall have the right to collect delinquent interest and penalties in the manner provided by the financing agreement. The capital provider shall include, in any action to

foreclose the C-PACER lien, the amount of any outstanding liens for taxes imposed by the state, a local government, or a junior taxing district against the real property having priority over the C-PACER lien as provided in subsection (1)(a) of this section, and the proceeds of any foreclosure sale of the property shall be applied first to the payment of such outstanding taxes to the extent necessary to satisfy such lien, and then to the delinquent assessments, interest, and penalties secured by the C-PACER lien.

(7) The capital provider may sell or assign, for consideration, any and all liens received from the participating county. The capital provider or their assignee shall have and possess the same powers and rights at law or in equity to enforce the C-PACER lien in the same manner as described in subsection (6) of this section.

**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 9, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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## CHAPTER 102

[Senate Bill 5895]

### HAZARDOUS WASTE SITES—LOCAL GOVERNMENT REMEDIAL ACTION GRANTS—TIMING

AN ACT Relating to timing restrictions for remedial action grants to local government; amending RCW 70A.305.190; and creating a new section.

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

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

(1) Remedial action grants are an effective means to assist a local government achieve toxic waste cleanup; and

(2) Requiring a local government to have all the necessary permits in hand prior to receiving remedial action grant funding has caused unintended delays in implementing projects.

**Sec. 2.** RCW 70A.305.190 and 2020 c 20 s 1320 are each amended to read as follows:

(1) The model toxics control capital account is hereby created in the state treasury.

(2) In addition to the funds deposited into the model toxics control capital account required under RCW 82.21.030, the following moneys must be deposited into the model toxics control capital account:

(a) The costs of remedial actions recovered under this chapter, except as provided under RCW 70A.305.170(7);

(b) Penalties collected or recovered under this chapter; and

(c) Any other money appropriated or transferred to the account by the legislature.

(3) Moneys in the model toxics control capital account must be used for the improvement, rehabilitation, remediation, and cleanup of toxic sites and other

capital-related expenditures for programs and activities identified in subsection (4) of this section.

(4) Moneys in the model toxics control capital account may be used only for capital projects and activities that carry out the purposes of this chapter and for financial assistance to local governments or other persons to carry out those projects or activities, including but not limited to the following, generally in descending order of priority:

(a) Remedial actions, including the following generally in descending order of priority:

(i) Extended grant agreements entered into under subsection (5)(a) of this section;

(ii) Grants or loans to local governments for remedial actions, including planning for adaptive reuse of properties as provided for under subsection (5)(d) of this section. The department must prioritize funding of remedial actions at:

(A) Facilities on the department's hazardous sites list with a high hazard ranking for which there is an approved remedial action work plan or an equivalent document under federal cleanup law;

(B) Brownfield properties within a redevelopment opportunity zone if the local government is a prospective purchaser of the property and there is a department-approved remedial action work plan or equivalent document under the federal cleanup law;

(iii) Department-conducted remedial actions;

(iv) Grants to persons intending to remediate contaminated real property for development of affordable housing;

(v) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with clean-up standards under RCW 70A.305.030(2)(e) if:

(A) The amount and terms of the funding are established under a settlement agreement under RCW 70A.305.040(4); and

(B) The director has found that the funding will achieve both a substantially more expeditious or enhanced cleanup than would otherwise occur, and the prevention or mitigation of unfair economic hardship;

(vi) Public funding to assist prospective purchasers to pay for the costs of remedial action in compliance with clean-up standards under RCW 70A.305.030(2)(e) if:

(A) The facility is located within a redevelopment opportunity zone designated under RCW 70A.305.150;

(B) The amount and terms of the funding are established under a settlement agreement under RCW 70A.305.040(5); and

(C) The director has found the funding will achieve a substantially more expeditious or enhanced cleanup than would otherwise occur, provide a public benefit in addition to cleanup commensurate with the scope of the public funding; and meet any additional criteria established in rule by the department; and

(vii) To expedite multiparty clean-up efforts, purchase of remedial action cost-cap insurance;

(b) Grants, or loans, or contracts to local governments for solid waste plans and programs under chapters 70A.205, 70A.214, 70A.224, 70A.222, 70A.230,



and 70A.300 RCW. Funds must be allocated consistent with priorities and matching requirements in the respective chapters;

(c) Toxic air pollutant reduction programs, including grants or loans to local governments for woodstoves and diesel;

(d) Grants, loans, or contracts to local governments for hazardous waste plans and programs under chapters 70A.405 and 70A.300 RCW, including chemical action plan implementation. Funds must be allocated consistent with priorities and matching requirements in the respective chapters; and

(e) Petroleum-based plastic or expanded polystyrene foam debris clean-up activities in fresh or marine waters.

(5) The department may establish and administer a program to provide grants and loans to local governments for remedial actions, including planning for adaptive reuse of contaminated properties. ~~((The department may not award a grant or loan for a remedial action unless the local government has obtained all of the required permits for the action within one year of the effective date of the enacted budget.))~~ To expedite cleanups throughout the state, the department may use the following strategies when providing grants to local governments under this subsection:

(a) Enter into an extended grant agreement with a local government conducting remedial actions at a facility where those actions extend over multiple biennia and the total eligible cost of those actions exceeds ~~((twenty million dollars))~~ \$20,000,000. The agreement is subject to the following limitations:

(i) The initial duration of such an agreement may not exceed ~~((ten))~~ 10 years. The department may extend the duration of such an agreement upon finding substantial progress has been made on remedial actions at the facility;

(ii) Extended grant agreements may not exceed ~~((fifty))~~ 50 percent of the total eligible remedial action costs at the facility; and

(iii) The department may not allocate future funding to an extended grant agreement unless the local government has demonstrated to the department that funds awarded under the agreement during the previous biennium have been substantially expended or contracts have been entered into to substantially expend the funds;

(b) Enter into a grant agreement with a local government conducting a remedial action that provides for periodic reimbursement of remedial action costs as they are incurred as established in the agreement;

(c) Enter into a grant agreement with a local government prior to it acquiring a property or obtaining necessary access to conduct remedial actions, provided the agreement is conditioned upon the local government acquiring the property or obtaining the access in accordance with a schedule specified in the agreement;

(d) Provide integrated planning grants to local governments to fund studies necessary to facilitate remedial actions at brownfield properties and adaptive reuse of properties following remediation. Eligible activities include, but are not limited to: Environmental site assessments; remedial investigations; health assessments; feasibility studies; site planning; community involvement; land use and regulatory analyses; building and infrastructure assessments; economic and fiscal analyses; and any environmental analyses under chapter 43.21C RCW;

(e) Provide grants to local governments for remedial actions related to area-wide groundwater contamination. To receive the funding, the local government does not need to be a potentially liable person or be required to seek reimbursement of grant funds from a potentially liable person;

(f) The director may alter grant matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:

(i) Funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;

(ii) Funding would create new substantial economic development, public recreational opportunities, or habitat restoration opportunities that would not otherwise occur; or

(iii) Funding would create an opportunity for acquisition and redevelopment of brownfield property under RCW 70A.305.040(5) that would not otherwise occur; and

(g) When pending grant applications under subsection (4)(d) and (e) of this section exceed the amount of funds available, designated redevelopment opportunity zones must receive priority for distribution of available funds.

(6) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in model toxics control capital account may be spent only after appropriation by statute.

Passed by the Senate February 10, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 17, 2022.

Filed in Office of Secretary of State March 17, 2022.

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**CHAPTER 103**

[Senate Bill 5898]

**HIGHWAY BONDS—PLEDGE OF VEHICLE-RELATED FEES**

AN ACT Relating to the use of vehicle-related fees to fulfill certain state general obligation bonds; amending RCW 47.10.883, 47.10.884, 47.10.885, 47.10.876, 47.10.877, 47.10.878, 47.10.864, 47.10.865, 47.10.866, 47.10.846, 47.10.847, 47.10.848, 47.10.838, 47.10.839, 47.10.841, 47.26.504, 47.26.505, 47.10.822, 47.10.823, 47.10.824, 47.10.815, 47.10.816, 47.10.817, 47.02.160, 47.02.170, 47.02.190, 47.26.424, 47.26.4252, 47.26.4254, 47.26.4255, and 39.53.120; adding a new section to chapter 47.10 RCW; and creating new sections.

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

**NEW SECTION. Sec. 1.** The legislature recognizes the importance of transportation electrification and the need to maintain stable funding for highway bonds as the use of carbon intensive motor fuels within the state is reduced. Therefore, it is the intent of the legislature to supplement certain existing highway bond authorization acts to prepare for and respond to changes in revenue derived from state excise taxes on fuel by providing an additional pledge of vehicle-related fees for highway bonds issued or refunded subsequent to the effective date of this section and providing funding from vehicle-related fees for bond retirement and interest on such highway bonds.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.10 RCW to read as follows:

For the purposes of this act, the following definitions apply:

(1) "Highway bond act" means any of the following bond authorization acts that authorize the issuance of general obligation bonds of the state of Washington for highway purposes the principal of and interest on which are first payable from state excise taxes on fuel imposed by chapter 82.38 RCW: Chapter 83, Laws of 1967, 1st ex. sess.; chapter 293, Laws of 1990; chapter 431, Laws of 1993; chapter 432, Laws of 1993; chapter 440, Laws of 1993; chapter 15, Laws of 1995, 2nd sp. sess.; chapter 321, Laws of 1998; chapter 147, Laws of 2003; chapter 315, Laws of 2005; and chapter 498, Laws of 2009.

(2) "Highway bonds" means any bonds issued by the state of Washington pursuant to a highway bond act.

(3) "Vehicle-related fees" means vehicle-related fees imposed under Title 46 RCW that constitute license fees for motor vehicles required to be used for highway purposes.

**Sec. 3.** RCW 47.10.883 and 2013 c 225 s 628 are each amended to read as follows:

Bonds issued under the authority of this section and RCW 47.10.879, 47.10.884, and 47.10.885 must distinctly state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay such principal and interest as the same becomes due. The principal of and interest on the bonds must be first payable in the manner provided in this section and RCW 47.10.879, 47.10.884, and 47.10.885 from toll revenue and then from proceeds of excise taxes on motor vehicle and special fuels and vehicle-related fees to the extent toll revenue is not available for that purpose. Toll revenue and the state excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW and vehicle-related fees are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of this section and RCW 47.10.879, 47.10.884, and 47.10.885, and the legislature agrees to continue to impose these toll charges on the state route number 520 corridor, and on any other eligible toll facility designated by the legislature and on which the imposition of tolls is authorized by the legislature in respect of the bonds, and excise taxes on motor vehicle and special fuels and vehicle-related fees in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of this section and RCW 47.10.879, 47.10.884, and 47.10.885.

**Sec. 4.** RCW 47.10.884 and 2009 c 498 s 13 are each amended to read as follows:

For bonds issued under the authority of this section and RCW 47.10.879, 47.10.883, and 47.10.885, the state treasurer shall first withdraw toll revenue from the state route number 520 corridor account created under chapter 472, Laws of 2009, and, to the extent toll revenue is not available, excise taxes on motor vehicle and special fuels and vehicle-related fees in the motor vehicle fund and deposit in the toll facility bond retirement account, or a special subaccount in the account, such amounts, and at such times, as are required by the bond proceedings.

Any excise taxes on motor vehicle and special fuels and vehicle-related fees required for bond retirement or interest on the bonds authorized by this section and RCW 47.10.879, 47.10.883, and 47.10.885 shall be taken from that portion

of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and vehicle-related fees and which is, or may be, appropriated to the department for state highway purposes. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues and vehicle-related fees to the state, counties, cities, and towns unless the amount arising from excise taxes on motor vehicle and special fuels and vehicle-related fees distributed to the state in the motor vehicle fund proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel or special fuel taxes or vehicle-related fees that are distributable to the state, counties, cities, and towns shall be repaid from available toll revenue in the manner provided in the bond proceedings or, if toll revenue is not available for that purpose, from the first excise taxes on motor vehicle and special fuels and vehicle-related fees distributed to the motor vehicle fund not required for bond retirement or interest on the bonds. Any excise taxes on motor vehicle and special fuels and vehicle-related fees required for bond retirement or interest on the bonds authorized by this section and RCW 47.10.879, 47.10.883, and 47.10.885 shall be reimbursed to the motor vehicle fund from toll revenue in the manner and with the priority specified in the bond proceedings.

**Sec. 5.** RCW 47.10.885 and 2009 c 498 s 14 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.879, 47.10.883, and 47.10.884 and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes and vehicle-related fees for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes and vehicle-related fees.

**Sec. 6.** RCW 47.10.876 and 2013 c 225 s 627 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.873 through 47.10.878 must distinctly state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay such principal and interest as the same becomes due. The principal and interest on the bonds must be first payable in the manner provided in RCW 47.10.873 through 47.10.878 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW and vehicle-related fees. Proceeds of these excise taxes and vehicle-related fees are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.873 through 47.10.878, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels and vehicle-related fees in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.10.873 through 47.10.878.

**Sec. 7.** RCW 47.10.877 and 2007 c 519 s 5 are each amended to read as follows:

Both principal and interest on the bonds issued for the purposes of RCW 47.10.873 through 47.10.878 shall be payable from the highway bond retirement fund. The state finance committee may provide that a special account be created in the fund to facilitate payment of the principal and interest. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the transportation partnership account in the motor vehicle fund and deposit in the highway bond retirement fund, or a special account in the fund, such amounts, and at such times, as are required by the bond proceedings.

Any funds required for bond retirement or interest on the bonds authorized by RCW 47.10.873 through 47.10.878 shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and vehicle-related fees and that is distributed to the transportation partnership account in the motor vehicle fund. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues and vehicle-related fees to the state, counties, cities, and towns unless the amount arising from excise taxes on motor vehicle and special fuels and vehicle-related fees distributed to the transportation partnership account proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel or special fuel taxes and vehicle-related fees that are distributable to the state, counties, cities, and towns shall be repaid from the first revenues from the motor vehicle fuel or special fuel taxes or vehicle-related fees distributed to the transportation partnership account not required for bond retirement or interest on the bonds.

**Sec. 8.** RCW 47.10.878 and 2005 c 315 s 6 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.873 through 47.10.877 and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes and vehicle-related fees for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes and vehicle-related fees.

**Sec. 9.** RCW 47.10.864 and 2013 c 225 s 626 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.861 through 47.10.866 must distinctly state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay such principal and interest as the same becomes due. The principal and interest on the bonds must be first payable in the manner provided in RCW 47.10.861 through 47.10.866 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW and vehicle-related fees. Proceeds of these excise taxes and vehicle-related fees are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.861 through 47.10.866, and the legislature agrees to

continue to impose these excise taxes on motor vehicle and special fuels and vehicle-related fees in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.10.861 through 47.10.866.

**Sec. 10.** RCW 47.10.865 and 2003 c 147 s 5 are each amended to read as follows:

Both principal and interest on the bonds issued for the purposes of RCW 47.10.861 through 47.10.866 shall be payable from the highway bond retirement fund. The state finance committee may provide that a special account be created in the fund to facilitate payment of the principal and interest. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the transportation 2003 account (nickel account) in the motor vehicle fund and deposit in the highway bond retirement fund, or a special account in the fund, such amounts, and at such times, as are required by the bond proceedings.

Any funds required for bond retirement or interest on the bonds authorized by RCW 47.10.861 through 47.10.866 shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and vehicle-related fees and that is distributed to the transportation 2003 account (nickel account) in the motor vehicle fund. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues and vehicle-related fees to the state, counties, cities, and towns unless the amount arising from excise taxes on motor vehicle and special fuels and vehicle-related fees distributed to the transportation 2003 account (nickel account) proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel or special fuel taxes and vehicle-related fees that are distributable to the state, counties, cities, and towns shall be repaid from the first revenues from the motor vehicle fuel or special fuel taxes or vehicle-related fees distributed to the transportation 2003 account (nickel account) not required for bond retirement or interest on the bonds.

**Sec. 11.** RCW 47.10.866 and 2003 c 147 s 6 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.861 through 47.10.865 and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes and vehicle-related fees for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes and vehicle-related fees.

**Sec. 12.** RCW 47.10.846 and 2013 c 225 s 625 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.843 through 47.10.848 must distinctly state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay such principal and interest as the same becomes due. The principal and

interest on the bonds must be first payable in the manner provided in RCW 47.10.843 through 47.10.848 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW and vehicle-related fees. Proceeds of such excise taxes and vehicle-related fees are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.843 through 47.10.848, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels and vehicle-related fees in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.10.843 through 47.10.848.

**Sec. 13.** RCW 47.10.847 and 1998 c 321 s 20 are each amended to read as follows:

Both principal and interest on the bonds issued for the purposes of RCW 47.10.843 through 47.10.848 shall be payable from the highway bond retirement fund. The state finance committee may provide that a special account be created in the fund to facilitate payment of the principal and interest. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the motor vehicle fund and deposit in the highway bond retirement fund, or a special account in the fund, such amounts, and at such times, as are required by the bond proceedings.

Any funds required for bond retirement or interest on the bonds authorized by RCW 47.10.843 through 47.10.848 shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and vehicle-related fees and which is, or may be, appropriated to the department of transportation for state highway purposes. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues and vehicle-related fees to the state, counties, cities and towns unless the amount arising from excise taxes on motor vehicle and special fuels and vehicle-related fees distributed to the state in the motor vehicle fund proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel or special fuel taxes and vehicle-related fees that are distributable to the state, counties, cities, and towns, shall be repaid from the first revenues from the motor vehicle fuel or special fuel taxes or vehicle-related fees distributed to the motor vehicle fund not required for bond retirement or interest on the bonds.

**Sec. 14.** RCW 47.10.848 and 1998 c 321 s 21 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.843 through 47.10.847 and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes and vehicle-related fees for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes and vehicle-related fees.

**Sec. 15.** RCW 47.10.838 and 2013 c 225 s 624 are each amended to read as follows:

(1) Bonds issued under the authority of RCW 47.10.834 through 47.10.841 must distinctly state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay such principal and interest as the same becomes due.

(2) The principal and interest on the bonds issued for the purposes enumerated in RCW 47.10.836 must be first payable in the manner provided in RCW 47.10.834 through 47.10.841 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW and vehicle-related fees. Proceeds of those excise taxes and vehicle-related fees are pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.834 through 47.10.841, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels and vehicle-related fees in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.10.834 through 47.10.841.

**Sec. 16.** RCW 47.10.839 and 1995 2nd sp.s. c 15 s 6 are each amended to read as follows:

(1) Both principal and interest on the bonds issued for the purposes of RCW 47.10.834 through 47.10.841 are payable from the highway bond retirement fund.

(2) The state finance committee shall, on or before June 30th of each year certify to the state treasurer the amount required for principal and interest on the bonds issued for the purposes specified in RCW 47.10.836 in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the motor vehicle fund and deposit into the highway bond retirement fund such amounts, and at such times, as are required by the bond proceedings.

(3) Any funds required for bond retirement or interest on the bonds authorized by RCW 47.10.834 through 47.10.841 shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and vehicle-related fees which is, or may be appropriated to the department of transportation for state highway purposes. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues and vehicle-related fees to the state, counties, cities, or towns unless the amount arising from excise taxes on motor vehicle and special fuels and vehicle-related fees distributed to the state in the motor vehicle fund proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

(4) Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel and special fuel taxes and vehicle-related fees that are distributable to the state, counties, cities, or towns shall be repaid from the first revenues from the motor vehicle fuel or special fuel taxes or vehicle-related fees distributed to the motor vehicle fund not required for bond retirement or interest on the bonds.

**Sec. 17.** RCW 47.10.841 and 1995 2nd sp.s. c 15 s 7 are each amended to read as follows:



Bonds issued under the authority of RCW 47.10.834 through 47.10.839 and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels taxes and vehicle-related fees for the payment of principal and interest thereon are an equal charge against the revenues from the motor vehicle and special fuels excise taxes and vehicle-related fees.

**Sec. 18.** RCW 47.26.504 and 2013 c 225 s 633 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.26.500 through 47.26.507 must distinctly state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay such principal and interest as the same becomes due. The principal and interest on such bonds must be first payable in the manner provided in RCW 47.26.500 through 47.26.507 from the proceeds of state excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW and vehicle-related fees. The proceeds of such excise taxes and vehicle-related fees are hereby pledged to the payment of any such bonds and the interest thereon, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle and special fuels and vehicle-related fees in amounts sufficient to pay, when due, the principal and interest on all such bonds.

**Sec. 19.** RCW 47.26.505 and 1999 sp.s. c 1 s 612 are each amended to read as follows:

Any funds required to repay such bonds, or the interest thereon when due, shall be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels and which is distributed to the transportation improvement account in the motor vehicle fund under RCW 46.68.090(~~(+)(h)~~) (2)(f) and vehicle-related fees in the motor vehicle fund, and shall never constitute a charge against any allocations of any other such funds in the motor vehicle fund to the state, counties, cities, and towns unless and until the amount of the motor vehicle fund arising from vehicle-related fees and the excise tax on motor vehicle and special fuels and distributed to the transportation improvement account proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

**Sec. 20.** RCW 47.10.822 and 2013 c 225 s 623 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.819 through 47.10.824 must distinctly state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay such principal and interest as the same becomes due. The principal and interest on the bonds must be first payable in the manner provided in RCW 47.10.819 through 47.10.824 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW and vehicle-related fees. Proceeds of such excise taxes and vehicle-related fees are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.819 through 47.10.824, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels and

vehicle-related fees in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.10.819 through 47.10.824.

**Sec. 21.** RCW 47.10.823 and 1993 c 432 s 5 are each amended to read as follows:

Both principal and interest on the bonds issued for the purposes of RCW 47.10.819 through 47.10.824 shall be payable from the highway bond retirement fund. The state finance committee may provide that a special account be created in the fund to facilitate payment of the principal and interest. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the motor vehicle fund and deposit in the highway bond retirement fund, or a special account in the fund, such amounts, and at such times, as are required by the bond proceedings.

Any funds required for bond retirement or interest on the bonds authorized by RCW 47.10.819 through 47.10.824 shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and vehicle-related fees and which is, or may be appropriated to the department of transportation for state highway purposes. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues and vehicle-related fees to the state, counties, cities, and towns unless the amount arising from excise taxes on motor vehicle and special fuels and vehicle-related fees distributed to the state in the motor vehicle fund proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the motor vehicle fuel or special fuel taxes and vehicle-related fees that are distributed to the state, counties, cities, and towns, shall be repaid from the first revenues from the motor vehicle fuel or special fuel taxes or vehicle-related fees distributed to the motor vehicle fund not required for bond retirement or interest on the bonds.

**Sec. 22.** RCW 47.10.824 and 1993 c 432 s 6 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.819 through 47.10.823 and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes and vehicle-related fees for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes and vehicle-related fees.

**Sec. 23.** RCW 47.10.815 and 2013 c 225 s 622 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.812 through 47.10.817 must distinctly state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay such principal and interest as the same becomes due. The principal and interest on the bonds must be first payable in the manner provided in RCW

47.10.812 through 47.10.817 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW and vehicle-related fees. Proceeds of such excise taxes and vehicle-related fees are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.812 through 47.10.817, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels and vehicle-related fees in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.10.812 through 47.10.817.

**Sec. 24.** RCW 47.10.816 and 1993 c 431 s 5 are each amended to read as follows:

Both principal and interest on the bonds issued for the purposes of RCW 47.10.812 through 47.10.817 shall be payable from the highway bond retirement fund. The state finance committee may provide that a special account be created in the fund to facilitate payment of the principal and interest. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the special category C account in the motor vehicle fund and deposit in the highway bond retirement fund, or a special account in the fund, such amounts, and at such times, as are required by the bond proceedings.

Any funds required for bond retirement or interest on the bonds authorized by RCW 47.10.812 through 47.10.817 shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and that is distributed to the special category C account in the motor vehicle fund and vehicle-related fees in the motor vehicle fund. Funds required shall never constitute a charge against any other allocations of vehicle-related fees and motor vehicle fuel and special fuel tax revenues to the state, counties, cities and towns unless the amount arising from vehicle-related fees and excise taxes on motor vehicle and special fuels distributed to the special category C account proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

Any payments for bond retirement or interest on the bonds taken from other revenues from the vehicle-related fees or motor vehicle fuel or special fuel taxes that are distributable to the state, counties, cities and towns, shall be repaid from the first revenues from the motor vehicle fuel or special fuel taxes distributed to the special category C account or vehicle-related fees not required for bond retirement or interest on the bonds.

**Sec. 25.** RCW 47.10.817 and 1993 c 431 s 6 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.812 through 47.10.816 and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes and vehicle-related fees for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes and vehicle-related fees.

**Sec. 26.** RCW 47.02.160 and 2013 c 225 s 611 are each amended to read as follows:

Bonds issued under the authority of RCW 47.02.120 through 47.02.190 must distinctly state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay such principal and interest as the same becomes due. The principal and interest on the bonds must be first payable in the manner provided in RCW 47.02.120 through 47.02.190 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW and vehicle-related fees. Proceeds of such excise taxes and vehicle-related fees are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.02.120 through 47.02.190, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels and vehicle-related fees in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.02.120 through 47.02.190.

**Sec. 27.** RCW 47.02.170 and 1990 c 293 s 6 are each amended to read as follows:

Both principal and interest on the bonds issued for the purposes of RCW 47.02.120 through 47.02.190 shall be payable from the highway bond retirement fund. The state finance committee may provide that a special account be created in the fund to facilitate payment of the principal and interest. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings. The state treasurer shall withdraw revenues from the motor vehicle fund and deposit in the highway bond retirement fund, or a special account in the fund, such amounts, and at such times, as are required by the bond proceedings.

Any funds required for bond retirement or interest on the bonds authorized by RCW 47.02.120 through 47.02.190 shall be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and vehicle-related fees and that is distributed to the state under RCW 46.68.130. Funds required shall never constitute a charge against any other allocations of motor vehicle fuel and special fuel tax revenues and vehicle-related fees to the state, counties, cities, and towns unless the amount arising from excise taxes on motor vehicle and special fuels and vehicle-related fees distributed to the state under RCW 46.68.130 proves insufficient to meet the requirements for bond retirement or interest on any such bonds.

**Sec. 28.** RCW 47.02.190 and 1990 c 293 s 8 are each amended to read as follows:

Bonds issued under the authority of RCW 47.02.120 through 47.02.180 and this section and any other general obligation bonds of the state of Washington that have been or that may be authorized and that pledge motor vehicle and special fuels excise taxes and vehicle-related fees for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuels excise taxes and vehicle-related fees.

**Sec. 29.** RCW 47.26.424 and 2013 c 225 s 630 are each amended to read as follows:

The first authorization bonds, series II bonds, and series III bonds must distinctly state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay such principal and interest as the same becomes due. The principal and interest on such bonds must be first payable in the manner provided in RCW 47.26.420 through 47.26.427, 47.26.425, and 47.26.4254 from the proceeds of state excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW and vehicle-related fees. The proceeds of such excise taxes and vehicle-related fees are hereby pledged to the payment of any such bonds and the interest thereon, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle and special fuels and vehicle-related fees in amounts sufficient to pay, when due, the principal and interest on all such bonds.

**Sec. 30.** RCW 47.26.4252 and 2013 c 225 s 631 are each amended to read as follows:

Any funds required to repay the authorization of series II bonds authorized by RCW 47.26.420, as reenacted by section 3, chapter 5, Laws of 1979, or the interest thereon when due, must first be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW and which is distributed to the transportation improvement account in the motor vehicle fund pursuant to RCW 46.68.090(2)(e), subject, however, to the prior lien of the first authorization of bonds authorized by RCW 47.26.420, as reenacted by section 3, chapter 5, Laws of 1979 and vehicle-related fees in the motor vehicle fund. If the moneys distributed to the transportation improvement account shall ever be insufficient to repay the first authorization bonds together with interest thereon, and the series II bonds or the interest thereon when due, the amount required to make such payments on such bonds or interest thereon must next be taken from vehicle-related fees and that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels and which is distributed to the state, counties, cities, and towns (~~pursuant to RCW 46.68.090~~). Any payments on such bonds or interest thereon taken from motor vehicle or special fuel tax revenues or vehicle-related fees which are distributable to the state, counties, cities, and towns, must be repaid from the first moneys distributed to the transportation improvement account not required for redemption of the first authorization bonds or series II and series III bonds or interest on those bond issues and vehicle-related fees in the motor vehicle fund.

**Sec. 31.** RCW 47.26.4254 and 2013 c 225 s 632 are each amended to read as follows:

(1) Any funds required to repay series III bonds authorized by RCW 47.26.420, or the interest thereon, when due must first be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels imposed by chapter 82.38 RCW and that is distributed to the transportation improvement account in the motor vehicle fund pursuant to RCW 46.68.090(2)(e), subject, however, to the prior lien of the first authorization of bonds authorized by RCW 47.26.420 and vehicle-related fees in the motor vehicle fund. If the vehicle-related fees in the motor vehicle fund and moneys (~~(se)~~) distributed to the transportation improvement account, after first

being applied to administrative expenses of the transportation improvement board and to the requirements of bond retirement and payment of interest on first authorization bonds and series II bonds as provided in RCW 47.26.425 and 47.26.4252, are insufficient to meet the requirements for bond retirement or interest on any series III bonds, the amount required to make such payments on series III bonds or interest thereon must next be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and vehicle-related fees and that is distributed to the state, counties, cities, and towns (~~((pursuant to RCW 46.68.090))~~), subject, however, to subsection (2) of this section.

(2) To the extent that vehicle-related fees in the motor vehicle fund and moneys (~~((sø))~~) distributed to the transportation improvement account are insufficient to meet the requirements for bond retirement or interest on any series III bonds, sixty percent of the amount required to make such payments when due must first be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and vehicle-related fees and that is distributed to the state. The remaining forty percent must first be taken from that portion of the motor vehicle fund that results from vehicle-related fees and the imposition of excise taxes on motor vehicle and special fuels and that is distributed to the cities (~~((and))~~), towns (~~((pursuant to RCW 46.68.090(2)(g)))~~), and (~~((to the))~~) counties (~~((pursuant to RCW 46.68.090(2)(h)))~~). Of the counties', cities', and towns' share of any additional amounts required in each fiscal year, the percentage thereof to be taken from the counties' distributive share and from the cities' and towns' distributive share must correspond to the percentage of funds authorized for specific county projects and for specific city and town projects, respectively, from the proceeds of series III bonds, for the period through the first eleven months of the prior fiscal year as determined by the chair of the transportation improvement board and reported to the state finance committee and the state treasurer not later than the first working day of June.

(3) Any payments on such bonds or interest thereon taken from motor vehicle or special fuel tax revenues or vehicle-related fees that are distributable to the state, counties, cities, and towns must be repaid from the first moneys distributed to the transportation improvement account not required for redemption of the first authorization bonds, series II bonds, or series III bonds or interest on these bonds and vehicle-related fees in the motor vehicle fund.

**Sec. 32.** RCW 47.26.4255 and 1979 c 5 s 9 are each amended to read as follows:

Except as otherwise provided by statute, the series II bonds issued under authority of RCW 47.26.420, as reenacted by section 3, chapter 5, Laws of 1979, the bonds authorized by RCW 47.60.560 through 47.60.640, and any general obligation bonds of the state of Washington which may be authorized by the forty-sixth legislature or thereafter and which pledge motor vehicle and special fuel excise taxes and vehicle-related fees for the payment of principal and interest thereon shall be an equal charge against the revenues from such motor vehicle and special fuel excise taxes and vehicle-related fees.

**NEW SECTION. Sec. 33.** The amendments made in sections 3 through 32 of this act to any highway bond act shall apply only to the highway bonds that

have been authorized to be issued but that have not yet been issued and are not outstanding on the effective date of this section and are issued after the effective date of this section.

**Sec. 34.** RCW 39.53.120 and 2005 c 487 s 7 are each amended to read as follows:

(1) Except as specifically provided in this chapter, refunding bonds issued under this chapter shall be issued in accordance with the provisions of law applicable to the type of bonds of the issuer to be refunded, at the time of the issuance of either the refunding bonds or the bonds to be refunded.

(2) Any refunding bonds hereafter issued by the state of Washington to refund highway bonds that were issued under a highway bond act prior to the effective date of this section, or to refund refunding bonds issued under the refunding bond act prior to the effective date of this section to refund highway bonds issued under a highway bond act prior to the effective date of this section, shall be issued in accordance with the provisions of law applicable to highway bonds at the time of the issuance of the refunding bonds.

(3) For all refunding bonds previously or hereafter issued by the state of Washington under this chapter, the state treasurer shall transfer from the designated funds or accounts the amount necessary for the payment of principal of and interest on the refunding bonds to the applicable bond retirement account for such refunding bonds on each date on which the interest or principal and interest payment is due on such refunding bonds unless an earlier transfer date, as determined by the state finance committee, is necessary or appropriate to the financial framework of the refunding bonds.

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## CHAPTER 104

[Engrossed Substitute Senate Bill 5078]

### FIREARMS—LARGE CAPACITY MAGAZINES

AN ACT Relating to establishing firearms-related safety measures to increase public safety by prohibiting the manufacture, importation, distribution, selling, and offering for sale of large capacity magazines, and by providing limited exemptions applicable to licensed firearms manufacturers and dealers for purposes of sale to armed forces branches and law enforcement agencies for purposes of sale or transfer outside the state; amending RCW 9.41.010; adding new sections to chapter 9.41 RCW; creating a new section; prescribing penalties; and providing an effective date.

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

**NEW SECTION. Sec. 1.** The legislature finds and declares that gun violence is a threat to the public health and safety of Washingtonians. Firearms equipped with large capacity magazines increase casualties by allowing a shooter to keep firing for longer periods of time without reloading. Large capacity magazines have been used in all 10 of the deadliest mass shootings since 2009, and mass shooting events from 2009 to 2018 where the use of large capacity magazines caused twice as many deaths and 14 times as many injuries. Documentary evidence following gun rampages, including the 2014 shooting at Seattle Pacific University, reveals many instances where victims were able to

escape or disarm the shooter during a pause to reload, and such opportunities are necessarily reduced when large capacity magazines are used. In addition, firearms equipped with large capacity magazines account for an estimated 22 to 36 percent of crime guns and up to 40 percent of crime guns used in serious violent crimes. Based on this evidence, and on studies showing that mass shooting fatalities declined during the 10-year period when the federal assault weapon and large capacity magazine ban was in effect, the legislature finds that restricting the sale, manufacture, and distribution of large capacity magazines is likely to reduce gun deaths and injuries. The legislature further finds that this is a well-calibrated policy based on evidence that magazine capacity limits do not interfere with responsible, lawful self-defense. The legislature further finds that the threats to public safety posed by large capacity magazines are heightened given current conditions. Our country is in the midst of a pandemic, economic recession, social tensions, and reckonings over racial justice. The years 2020 and 2021 have seen a sharp increase in gun sales and gun violence, as well as fears over gun violence and incidents of armed intimidation. In this volatile atmosphere, the legislature declares that it is time to enhance public health and safety by limiting the sale of large capacity magazines. The legislature intends to limit the prospective sale of large capacity magazines, while allowing existing legal owners to retain the large capacity magazines they currently own.

**Sec. 2.** RCW 9.41.010 and 2021 c 215 s 93 are each 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) "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.

(3) "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.

(4) "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.

(5) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

(6) "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.

(7) "Family or household member" has the same meaning as in RCW 7.105.010.

(8) "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.

(9) "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.

(10) "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.

(11) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "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.

(12) "Gun" has the same meaning as firearm.

(13) "Intimate partner" has the same meaning as provided in RCW 7.105.010.

(14) "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.

(15) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

(16) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

(17) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(18) "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.

(19) "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.

(20) "Manufacture" means, with respect to a firearm or large capacity magazine, the fabrication or construction of a firearm or large capacity magazine.

(21) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(22) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

(23) "Pistol" means any firearm with a barrel less than (~~sixteen~~) 16 inches in length, or is designed to be held and fired by the use of a single hand.

(24) "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.

(25) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

(26) "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.

(27) "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.

"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.

(28) "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 (~~ten~~) 10 years;
- (c) Child molestation in the second degree;
- (d) Incest when committed against a child under age (~~fourteen~~) 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; or
- (p) Any felony conviction under RCW 9.41.115.

(29) "Short-barreled rifle" means a rifle having one or more barrels less than (~~sixteen~~) 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 (~~twenty-six~~) 26 inches.

(30) "Short-barreled shotgun" means a shotgun having one or more barrels less than (~~eighteen~~) 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 (~~twenty-six~~) 26 inches.

(31) "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.

(32) "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.

(33) "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.

(34) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

(35) "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 federally licensed manufacturer or importer.

(36) "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.

(37) "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.

(38) "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 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 the individual transported out of state.

**NEW SECTION. Sec. 3.** A new section is added to chapter 9.41 RCW to read as follows:

(1) No person in this state may manufacture, import, distribute, sell, or offer for sale any large capacity magazine, except as authorized in this section.

(2) Subsection (1) of this section does not apply to any of the following:

(a) The manufacture, importation, distribution, offer for sale, or sale of a large capacity magazine by a licensed firearms manufacturer for the purposes of sale to any branch of the armed forces of the United States or the state of Washington, or to a law enforcement agency in this state for use by that agency or its employees for law enforcement purposes;

(b) The importation, distribution, offer for sale, or sale of a large capacity magazine by a dealer that is properly licensed under federal and state law for the purpose of sale to any branch of the armed forces of the United States or the state

of Washington, or to a law enforcement agency in this state for use by that agency or its employees for law enforcement purposes;

(c) The distribution, offer for sale, or sale of a large capacity magazine to or by a dealer that is properly licensed under federal and state law where the dealer acquires the large capacity magazine from a person legally authorized to possess or transfer the large capacity magazine for the purpose of selling or transferring the large capacity magazine to a person who does not reside in this state.

(3) A person who violates this section is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

**NEW SECTION. Sec. 4.** A new section is added to chapter 9.41 RCW to read as follows:

Distributing, selling, offering for sale, or facilitating the sale, distribution, or transfer of a large capacity magazine online is an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce for purposes of the consumer protection act, chapter 19.86 RCW.

**NEW SECTION. Sec. 5.** 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. 6.** This act takes effect July 1, 2022.

Passed by the Senate February 9, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 23, 2022.

Filed in Office of Secretary of State March 23, 2022.

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## CHAPTER 105

[Engrossed Substitute House Bill 1705]

### UNTRACEABLE FIREARMS

AN ACT Relating to limiting ghost guns, including untraceable firearms and untraceable unfinished frames and receivers that can be used to manufacture or assemble untraceable firearms, with exceptions for licensed federal firearm manufacturers, dealers, and importers, and firearms that have been rendered permanently inoperable, are antiques, or were manufactured before 1968; amending RCW 7.80.120, 9.41.010, 9.41.190, and 43.43.580; adding new sections to chapter 9.41 RCW; prescribing penalties; and providing an effective date.

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

**Sec. 1.** RCW 7.80.120 and 2021 c 65 s 8 are each amended to read as follows:

(1) A person found to have committed a civil infraction shall be assessed a monetary penalty.

(a) The maximum penalty and the default amount for a class 1 civil infraction shall be (~~two hundred fifty dollars~~) \$250, not including statutory assessments, except for an infraction of state law involving (i) potentially dangerous litter as specified in RCW 70A.200.060(4) or violent video or computer games under RCW 9.91.180, in which case the maximum penalty and default amount is (~~five hundred dollars~~) \$500; or (ii) a person's refusal to submit to a test or tests pursuant to RCW 79A.60.040 and 79A.60.700, in which case the maximum penalty and default amount is (~~one thousand dollars~~) \$1,000; or (iii) the misrepresentation of service animals under RCW 49.60.214,

in which case the maximum penalty and default amount is ~~((five hundred dollars))~~ \$500; or (iv) untraceable firearms pursuant to section 4 of this act or unfinished frames or receivers pursuant to section 5 of this act, in which case the maximum penalty and default amount is \$500;

(b) The maximum penalty and the default amount for a class 2 civil infraction shall be ~~((one hundred twenty five dollars))~~ \$125, not including statutory assessments;

(c) The maximum penalty and the default amount for a class 3 civil infraction shall be ~~((fifty dollars))~~ \$50, not including statutory assessments; and

(d) The maximum penalty and the default amount for a class 4 civil infraction shall be ~~((twenty five dollars))~~ \$25, not including statutory assessments.

(2) The supreme court shall prescribe by rule the conditions under which local courts may exercise discretion in assessing fines for civil infractions.

(3) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting authority of the failure to pay.

(4) The court may also order a person found to have committed a civil infraction to make restitution.

**Sec. 2.** RCW 9.41.010 and 2021 c 215 s 93 are each 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) "Assemble" means to fit together component parts.

(3) "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.

~~((3))~~ (4) "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.

~~((4))~~ (5) "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.

~~((5))~~ (6) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

~~((6))~~ (7) "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.

~~((7))~~ (8) "Family or household member" has the same meaning as in RCW 7.105.010.

~~((8))~~ (9) "Federal firearms dealer" means a licensed dealer as defined in 18 U.S.C. Sec. 921(a)(11).

(10) "Federal firearms importer" means a licensed importer as defined in 18 U.S.C. Sec. 921(a)(9).

(11) "Federal firearms manufacturer" means a licensed manufacturer as defined in 18 U.S.C. Sec. 921(a)(10).

(12) "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.

~~((9))~~ (13) "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.

~~((10))~~ (14) "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.

~~((11))~~ (15) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "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.

~~((12))~~ (16)(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.

(17) "Gun" has the same meaning as firearm.

~~((13))~~ (18) "Intimate partner" has the same meaning as provided in RCW 7.105.010.

~~((14))~~ (19) "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.

~~((15))~~ (20) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

~~((16))~~ (21) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

~~((17))~~ (22) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

~~((18))~~ (23) "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.

~~((19))~~ (24) "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.

~~((20))~~ (25) "Manufacture" means, with respect to a firearm, the fabrication, making, formation, production, or construction of a firearm, by manual labor or by machinery.

~~((21))~~ (26) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).



~~((22))~~ (27) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

~~((23))~~ (28) "Pistol" means any firearm with a barrel less than sixteen inches in length, or is designed to be held and fired by the use of a single hand.

~~((24))~~ (29) "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.

~~((25))~~ (30) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

~~((26))~~ (31) "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.

~~((27))~~ (32)(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.

~~((28))~~ (33) "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 ten years;

(c) Child molestation in the second degree;

(d) Incest when committed against a child under age fourteen;

(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; or

(p) Any felony conviction under RCW 9.41.115.

~~((29))~~ (34) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen 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 twenty-six inches.

~~((30))~~ (35) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen 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 twenty-six inches.

~~((31))~~ (36) "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.

~~((32))~~ (37) "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.

~~((33))~~ (38) "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.

~~((34))~~ (39)(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.

(40) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

~~((35))~~ (41) "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 ~~((federally licensed manufacturer or importer))~~ federal firearms manufacturer, federal firearms importer, or federal firearms dealer in compliance with all federal laws and regulations.

**Sec. 3.** RCW 9.41.190 and 2019 c 243 s 3 are each amended to read as follows:

(1) Except as otherwise provided in this section, it is unlawful for any person to:

(a) Manufacture, own, buy, sell, loan, furnish, transport, or have in possession or under control, any machine gun, bump-fire stock, undetectable firearm, short-barreled shotgun, or short-barreled rifle;

(b) Manufacture, own, buy, sell, loan, furnish, transport, or have in possession or under control, any part designed and intended solely and exclusively for use in a machine gun, bump-fire stock, undetectable firearm, short-barreled shotgun, or short-barreled rifle, or in converting a weapon into a machine gun, short-barreled shotgun, or short-barreled rifle;

(c) Assemble or repair any machine gun, bump-fire stock, undetectable firearm, short-barreled shotgun, or short-barreled rifle; or

(d) Manufacture, cause to be manufactured, assemble, or cause to be assembled, an untraceable firearm with the intent to sell the untraceable firearm.

(2) It is not unlawful for a person to manufacture, own, buy, sell, loan, furnish, transport, assemble, or repair, or have in possession or under control, a short-barreled rifle, or any part designed or intended solely and exclusively for use in a short-barreled rifle or in converting a weapon into a short-barreled rifle, if the person is in compliance with applicable federal law.

(3) Subsection (1) of this section shall not apply to:

(a) Any peace officer in the discharge of official duty or traveling to or from official duty, or to any officer or member of the armed forces of the United States or the state of Washington in the discharge of official duty or traveling to or from official duty; or

(b) A person, including an employee of such person if the employee has undergone fingerprinting and a background check, who or which is exempt from or licensed under federal law, and engaged in the production, manufacture, repair, or testing of machine guns, bump-fire stocks, short-barreled shotguns, or short-barreled rifles:

(i) To be used or purchased by the armed forces of the United States;

(ii) To be used or purchased by federal, state, county, or municipal law enforcement agencies; or

(iii) For exportation in compliance with all applicable federal laws and regulations.

(4) It shall be an affirmative defense to a prosecution brought under this section that the machine gun or short-barreled shotgun was acquired prior to July 1, 1994, and is possessed in compliance with federal law.

(5) Any person violating this section is guilty of a class C felony.

**NEW SECTION. Sec. 4.** A new section is added to chapter 9.41 RCW to read as follows:

(1) No person may manufacture, cause to be manufactured, assemble, or cause to be assembled an untraceable firearm.

(2) After March 10, 2023, no person may knowingly or recklessly possess, transport, or receive an untraceable firearm, unless the party possessing, transporting, or receiving the untraceable firearm is a law enforcement agency or a federal firearms importer, federal firearms manufacturer, or federal firearms dealer.

(3) No person may sell, offer to sell, transfer, or purchase an untraceable firearm.

(4) Subsections (2) and (3) of this section do not apply to any firearm that:

(a) Has been rendered permanently inoperable;

(b) Is an antique firearm, as defined in 18 U.S.C. Sec. 921(a)(16);

(c) Was manufactured before 1968; or

(d) Has been imprinted by a federal firearms dealer or other federal licensee authorized to provide marking services as provided for in section 6 of this act.

(5)(a) Any person who violates this section commits a civil infraction and shall be assessed a monetary penalty of \$500.

(b) If a person previously has been found to have violated this section, then the person is guilty of a misdemeanor punishable under chapter 9A.20 RCW for each subsequent violation of this section.

(c) If a person previously has been found to have violated this section two or more times, then the person is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW for each subsequent violation of this section.

(d) If a person violates this section by manufacturing, causing to be manufactured, assembling, causing to be assembled, possessing, transporting, receiving, selling, offering to sell, transferring, or purchasing three or more untraceable firearms at a time, then the person is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW for each violation of this section.

(e) A person commits a separate violation of this section for each and every firearm to which this section applies.

**NEW SECTION. Sec. 5.** A new section is added to chapter 9.41 RCW to read as follows:

(1) After March 10, 2023, no person may knowingly or recklessly possess, transport, or receive an unfinished frame or receiver, unless: (a) The party possessing, transporting, or receiving the unfinished frame or receiver is a law enforcement agency or a federal firearms importer, federal firearms manufacturer, or federal firearms dealer; or (b) the unfinished frame or receiver has been imprinted with a serial number issued by a federal firearms importer, federal firearms manufacturer, or federal firearms dealer.

(2) No person may sell, offer to sell, transfer, or purchase an unfinished frame or receiver, unless: (a) The party purchasing the unfinished frame or receiver is a federal firearms importer, federal firearms manufacturer, or federal firearms dealer; or (b) the unfinished frame or receiver has been imprinted with a serial number issued by a federal firearms importer, federal firearms manufacturer, or federal firearms dealer.

(3) Subsection (1) of this section does not apply to any unfinished frame or receiver that has been imprinted by a federal firearms dealer or other federal licensee authorized to provide marking services as provided for in section 6 of this act.

(4)(a) Any person who violates this section commits a civil infraction and shall be assessed a monetary penalty of \$500.

(b) If a person previously has been found to have violated this section, then the person is guilty of a misdemeanor punishable under chapter 9A.20 RCW for each subsequent violation of this section.

(c) If a person previously has been found to have violated this section two or more times, then the person is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW for each subsequent violation of this section.

(d) If a person violates this section by possessing, transporting, receiving, selling, offering to sell, transferring, or purchasing three or more unfinished frames or receivers at a time, then the person is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW for each violation of this section.

(e) A person commits a separate violation of this section for each and every unfinished frame or receiver to which this section applies.

**NEW SECTION. Sec. 6.** A new section is added to chapter 9.41 RCW to read as follows:

(1) A federal firearms dealer or other federal licensee authorized to provide marking services for firearms may imprint a firearm or unfinished frame or receiver with a serial number.

(2) The firearm or unfinished frame or receiver shall be imprinted with the licensee's abbreviated federal firearms license number as a prefix (which is the first three and last five digits) followed by a hyphen, and then followed by a number as a suffix, e.g., "12345678-(number)." The serial number must be placed in a manner that accords with the requirements under federal law for affixing serial numbers to firearms, including the requirements that the serial number be at the minimum size and depth, and not susceptible to being readily obliterated, altered, or removed.

(3) The serial number must not duplicate any serial numbers placed by the federal firearms dealer or other federal licensee on any other firearm or unfinished frame or receiver.

(4) Whenever a federal firearms dealer or other federal licensee imprints a firearm or unfinished frame or receiver with a serial number, the licensee shall retain records that accord with the requirements under federal law in the case of the sale of a firearm.

**Sec. 7.** RCW 43.43.580 and 2020 c 28 s 1 are each amended to read as follows:

(1) The Washington state patrol shall establish a firearms background check unit to serve as a centralized single point of contact for dealers to conduct

background checks for firearms sales or transfers required under chapter 9.41 RCW and the federal Brady handgun violence prevention act (18 U.S.C. Sec. 921 et seq.). The Washington state patrol shall establish an automated firearms background check system to conduct background checks on applicants for the purchase or transfer of a firearm. The system must include the following characteristics:

(a) Allow a dealer to contact the Washington state patrol through a web portal or other electronic means and by telephone to request a background check of an applicant for the purchase or transfer of a firearm;

(b) Provide a dealer with a notification that a firearm purchase or transfer application has been received;

(c) Assign a unique identifier to the background check inquiry;

(d) Provide an automated response to the dealer indicating whether the transfer may proceed or is denied, or that the check is indeterminate and will require further investigation;

(e) Include measures to ensure data integrity and the confidentiality and security of all records and data transmitted and received by the system; and

(f) Include a performance metrics tracking system to evaluate the performance of the background check system.

(2) Upon receipt of a request from a dealer for a background check in connection with the sale or transfer of a firearm, the Washington state patrol shall:

(a) Provide the dealer with a notification that a firearm transfer application has been received;

(b) Conduct a check of the national instant criminal background check system and the following additional records systems to determine whether the transferee is prohibited from possessing a firearm under state or federal law: (i) The Washington crime information center and Washington state identification system; (ii) the health care authority electronic database; (iii) the federal bureau of investigation national data exchange database and any available repository of statewide local law enforcement record management systems information; (iv) the administrative office of the courts case management system; and (v) other databases or resources as appropriate;

(c) Perform an equivalency analysis on criminal charges in foreign jurisdictions to determine if the applicant has been convicted as defined in RCW 9.41.040(3) and if the offense is equivalent to a Washington felony as defined in RCW 9.41.010((8));

(d) Notify the dealer without delay that the records indicate the individual is prohibited from possessing a firearm and the transfer is denied or that the individual is approved to complete the transfer. If the results of the background check are indeterminate, the Washington state patrol shall notify the dealer of the delay and conduct necessary research and investigation to resolve the inquiry; and

(e) Provide the dealer with a unique identifier for the inquiry.

(3) The Washington state patrol may hold the delivery of a firearm to an applicant under the circumstances provided in RCW 9.41.090 (4) and (5).

(4)(a) The Washington state patrol shall require a dealer to charge each firearm purchaser or transferee a fee for performing background checks in connection with firearms transfers. The fee must be set at an amount necessary

to cover the annual costs of operating and maintaining the firearm background check system but shall not exceed eighteen dollars. The Washington state patrol shall transmit the fees collected to the state treasurer for deposit in the state firearms background check system account created in RCW 43.43.590. It is the intent of the legislature that once the state firearm background check system is established, the fee established in this section will replace the fee required in RCW 9.41.090(7).

(b) The background check fee required under this subsection does not apply to any background check conducted in connection with a pawnbroker's receipt of a pawned firearm or the redemption of a pawned firearm.

(5) The Washington state patrol shall establish a procedure for a person who has been denied a firearms transfer as the result of a background check to appeal the denial to the Washington state patrol and to obtain information on the basis for the denial and procedures to review and correct any erroneous records that led to the denial.

(6) The Washington state patrol shall work with the administrative office of the courts to build a link between the firearm background check system and the administrative office of the courts case management system for the purpose of accessing court records to determine a person's eligibility to possess a firearm.

(7) Upon establishment of the firearm background check system under this section, the Washington state patrol shall notify each dealer in the state of the existence of the system, and the dealer must use the system to conduct background checks for firearm sales or transfers beginning on the date that is thirty days after issuance of the notification.

(8) The Washington state patrol shall consult with the Washington background check advisory board created in RCW 43.43.585 in carrying out its duties under this section.

(9) All records and information prepared, obtained, used, or retained by the Washington state patrol in connection with a request for a firearm background check are exempt from public inspection and copying under chapter 42.56 RCW.

(10) The Washington state patrol may adopt rules necessary to carry out the purposes of this section.

(11) For the purposes of this section, "dealer" has the same meaning as given in RCW 9.41.010.

**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 July 1, 2022.

Passed by the House February 10, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 23, 2022.

Filed in Office of Secretary of State March 23, 2022.

## CHAPTER 106

[Engrossed Substitute House Bill 1630]

## POSSESSION OF WEAPONS—CERTAIN LOCATIONS

AN ACT Relating to establishing restrictions on the possession of weapons in certain locations; amending RCW 9.41.280 and 9.41.305; reenacting RCW 9.41.280; adding a new section to chapter 9.41 RCW; prescribing penalties; and providing a contingent effective date.

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

**Sec. 1.** RCW 9.41.280 and 2019 c 325 s 5001 are each amended to read as follows:

(1) It is unlawful for a person to knowingly carry onto, or to possess on, public or private elementary or secondary school premises, school-provided transportation, ~~((or))~~ areas of facilities while being used exclusively by public or private schools, or areas of facilities while being used for official meetings of a school district board of directors:

(a) Any firearm;

(b) Any other dangerous weapon as defined in RCW 9.41.250;

(c) Any device commonly known as "nun-chu-ka sticks," consisting of two or more lengths of wood, metal, plastic, or similar substance connected with wire, rope, or other means;

(d) Any device, commonly known as "throwing stars," which are multipointed, metal objects designed to embed upon impact from any aspect;

(e) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas; or

(f)(i) Any portable device manufactured to function as a weapon and which is commonly known as a stun gun, including a projectile stun gun which projects wired probes that are attached to the device that emit an electrical charge designed to administer to a person or an animal an electric shock, charge, or impulse; or

(ii) Any device, object, or instrument which is used or intended to be used as a weapon with the intent to injure a person by an electric shock, charge, or impulse.

(2) Any such person violating subsection (1) of this section is guilty of a ~~((gross))~~ misdemeanor. Second and subsequent violations of subsection (1) of this section are a gross misdemeanor. If any person is convicted of a violation of subsection (1)(a) of this section, the person shall have his or her concealed pistol license, if any revoked for a period of three years. Anyone convicted under this subsection is prohibited from applying for a concealed pistol license for a period of three years. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

Any violation of subsection (1) of this section by elementary or secondary school students constitutes grounds for expulsion from the state's public schools in accordance with RCW 28A.600.010. An appropriate school authority shall promptly notify law enforcement and the student's parent or guardian regarding any allegation or indication of such violation.

Upon the arrest of a person at least twelve years of age and not more than twenty-one years of age for violating subsection (1)(a) of this section, the person shall be detained or confined in a juvenile or adult facility for up to seventy-two hours. The person shall not be released within the seventy-two hours until after



the person has been examined and evaluated by the designated crisis responder unless the court in its discretion releases the person sooner after a determination regarding probable cause or on probation bond or bail.

Within twenty-four hours of the arrest, the arresting law enforcement agency shall refer the person to the designated crisis responder for examination and evaluation under chapter 71.05 or 71.34 RCW and inform a parent or guardian of the person of the arrest, detention, and examination. The designated crisis responder shall examine and evaluate the person subject to the provisions of chapter 71.05 or 71.34 RCW. The examination shall occur at the facility in which the person is detained or confined. If the person has been released on probation, bond, or bail, the examination shall occur wherever is appropriate.

Upon completion of any examination by the designated crisis responder, the results of the examination shall be sent to the court, and the court shall consider those results in making any determination about the person.

The designated crisis responder shall, to the extent permitted by law, notify a parent or guardian of the person that an examination and evaluation has taken place and the results of the examination. Nothing in this subsection prohibits the delivery of additional, appropriate mental health examinations to the person while the person is detained or confined.

If the designated crisis responder determines it is appropriate, the designated crisis responder may refer the person to the local behavioral health administrative services organization for follow-up services or other community providers for other services to the family and individual.

(3) Subsection (1) of this section does not apply to:

(a) Any student or employee of a private military academy when on the property of the academy;

(b) Any person engaged in military, law enforcement, or school district security activities. However, a person who is not a commissioned law enforcement officer and who provides school security services under the direction of a school administrator may not possess a device listed in subsection (1)(f) of this section unless he or she has successfully completed training in the use of such devices that is equivalent to the training received by commissioned law enforcement officers;

(c) Any person who is involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the firearms of collectors or instructors are handled or displayed;

(d) Any person while the person is participating in a firearms or air gun competition approved by the school or school district;

(e) Any person in possession of a pistol who has been issued a license under RCW 9.41.070, or is exempt from the licensing requirement by RCW 9.41.060, while (~~(picking)~~);

(i) Picking up or dropping off a student; or

(ii) Attending official meetings of a school district board of directors held off school district-owned or leased property;

(f) Any nonstudent at least eighteen years of age legally in possession of a firearm or dangerous weapon that is secured within an attended vehicle or concealed from view within a locked unattended vehicle while conducting legitimate business at the school;

(g) Any nonstudent at least eighteen years of age who is in lawful possession of an unloaded firearm, secured in a vehicle while conducting legitimate business at the school; or

(h) Any law enforcement officer of the federal, state, or local government agency.

(4) Subsections (1)(c) and (d) of this section do not apply to any person who possesses nun-chu-ka sticks, throwing stars, or other dangerous weapons to be used in martial arts classes authorized to be conducted on the school premises.

(5) Subsection (1)(f)(i) of this section does not apply to any person who possesses a device listed in subsection (1)(f)(i) of this section, if the device is possessed and used solely for the purpose approved by a school for use in a school authorized event, lecture, or activity conducted on the school premises.

(6) Except as provided in subsection (3)(b), (c), (f), and (h) of this section, firearms are not permitted in a public or private school building.

(7) "GUN-FREE ZONE" signs shall be posted around school facilities giving warning of the prohibition of the possession of firearms on school grounds.

(8) A school district board of directors must post signs providing notice of the restrictions on possession of firearms and other weapons under this section at facilities being used for official meetings of the school district board of directors.

**Sec. 2.** RCW 9.41.305 and 2021 c 261 s 2 are each amended to read as follows:

(1) Unless exempt under subsection ~~((4))~~ (3) of this section, it is unlawful for any person to knowingly open carry a firearm or other weapon, as defined in RCW 9.41.300(1)(b), while knowingly being in the following locations:

(a) The west state capitol campus grounds; any buildings on the state capitol grounds; any state legislative office; or any location of a public state legislative hearing or meeting during the hearing or meeting; or

(b) City, town, county, or other municipality buildings used in connection with meetings of the governing body of the city, town, county, or other municipality, or any location of a public meeting or hearing of the governing body of a city, town, county, or other municipality during the hearing or meeting.

(2) For the purposes of this section:

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

~~((3))~~ (b) "Governing body" has the same meaning as in RCW 42.30.020.

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

SW and 16th Avenue SW, north of 16th Avenue SW between Water Street SW and the east banks of Capitol Lake, and east of the banks of Capitol Lake.

~~((4))~~ (3) Duly authorized federal, state, or local law enforcement officers or personnel are exempt from this section when carrying a firearm or other weapon in conformance with their employing agency's policy. Members of the armed forces of the United States or the state of Washington are exempt from this section when carrying a firearm or other weapon in the discharge of official duty or traveling to or from official duty.

~~((5))~~ (4) A person violating this section is guilty of a ~~((gross))~~ misdemeanor. Second and subsequent violations of this section are a gross misdemeanor.

~~((6))~~ (5) Nothing in this section applies to the lawful concealed carry of a firearm by a person who has a valid concealed pistol license.

(6) A city, town, county, or other municipality must post signs providing notice of the restrictions on possession of firearms and other weapons under this section at any locations specified in subsection (1)(b) of this section.

NEW SECTION. Sec. 3. A new section is added to chapter 9.41 RCW to read as follows:

(1) Except as provided in subsections (3) and (4) of this section, it is unlawful for a person to knowingly carry onto, or to possess in, a ballot counting center, a voting center, a student engagement hub, or the county elections and voter registration office, or areas of facilities while being used as a ballot counting center, a voting center, a student engagement hub, or the county elections and voter registration office:

(a) Any firearm;

(b) Any other dangerous weapon as described in RCW 9.41.250;

(c) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas;

(d)(i) Any portable device manufactured to function as a weapon and which is commonly known as a stun gun, including a projectile stun gun that projects wired probes that are attached to the device that emit an electrical charge designed to administer to a person or an animal an electric shock, charge, or impulse; or

(ii) Any device, object, or instrument that is used or intended to be used as a weapon with the intent to injure a person by an electric shock, charge, or impulse; or

(e) Any spring blade knife as defined in RCW 9.41.250.

(2) A person who violates subsection (1) of this section is guilty of a misdemeanor. Second and subsequent violations of this section are a gross misdemeanor. If a person is convicted of a violation of subsection (1)(a) of this section, the person shall have his or her concealed pistol license, if any, revoked for a period of three years. Anyone convicted under subsection (1)(a) of this section is prohibited from applying for a concealed pistol license for a period of three years from the date of conviction. The court shall order the person to immediately surrender any concealed pistol license, and within three business days notify the department of licensing in writing of the required revocation of any concealed pistol license held by the person. Upon receipt of the notification by the court, the department of licensing shall determine if the person has a

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

(3) Subsection (1) of this section does not apply to:

(a) Any law enforcement officer of a federal, state, or local government agency; or

(b) Any security personnel hired by a county and engaged in security specifically for a counting center, a voting center, a student engagement hub, or the county elections and voter registration office or areas of facilities used for such purposes. However, a person who is not a commissioned law enforcement officer and who provides elections and voter registration security services under the direction of a county may not possess a firearm or device listed in subsection (1)(d) of this section unless he or she has successfully completed training in the use of firearms or such devices that is equivalent to the training received by commissioned law enforcement officers.

(4) Subsection (1) of this section does not prohibit concealed carry of a pistol, by a person licensed to carry a concealed pistol pursuant to RCW 9.41.070, in any voting center, student engagement hub, county elections and voter registration office, or areas of facilities while being used as a voting center, student engagement hub, or county elections and voter registration office. However, no weapon restricted by this section, whether concealed or openly carried, may be possessed in any ballot counting center or areas of facilities while being used as a ballot counting center.

(5) Elections officers and officials must post signs providing notice of the restriction on possession of firearms and other weapons at each counting center, voting center, student engagement hub, or county elections and voter registration office, or areas of facilities while being used as a counting center, a voting center, a student engagement hub, or the county elections and voter registration office.

(6) For the purposes of this section:

(a) "Ballot counting center" has the same meaning as "counting center" in RCW 29A.04.019;

(b) "Voting center" means a voting center as described in RCW 29A.40.160; and

(c) "Student engagement hub" means a student engagement hub as described in RCW 29A.40.180.

**Sec. 4.** RCW 9.41.280 and 2022 c . . . s 1 (section 1 of this act) and 2022 c . . . (Substitute House Bill No. 1224) s 2 are each reenacted to read as follows:

(1) It is unlawful for a person to knowingly carry onto, or to possess on, public or private elementary or secondary school premises, school-provided transportation, areas of facilities while being used exclusively by public or private schools, or areas of facilities while being used for official meetings of a school district board of directors:

(a) Any firearm;

(b) Any other dangerous weapon as defined in RCW 9.41.250;

(c) Any device commonly known as "nun-chu-ka sticks," consisting of two or more lengths of wood, metal, plastic, or similar substance connected with wire, rope, or other means;

(d) Any device, commonly known as "throwing stars," which are multipointed, metal objects designed to embed upon impact from any aspect;

(e) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas;

(f)(i) Any portable device manufactured to function as a weapon and which is commonly known as a stun gun, including a projectile stun gun which projects wired probes that are attached to the device that emit an electrical charge designed to administer to a person or an animal an electric shock, charge, or impulse; or

(ii) Any device, object, or instrument which is used or intended to be used as a weapon with the intent to injure a person by an electric shock, charge, or impulse; or

(g) Any spring blade knife as defined in RCW 9.41.250.

(2) Any such person violating subsection (1) of this section is guilty of a misdemeanor. Second and subsequent violations of subsection (1) of this section are a gross misdemeanor. If any person is convicted of a violation of subsection (1)(a) of this section, the person shall have his or her concealed pistol license, if any revoked for a period of three years. Anyone convicted under this subsection is prohibited from applying for a concealed pistol license for a period of three years. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

Any violation of subsection (1) of this section by elementary or secondary school students constitutes grounds for expulsion from the state's public schools in accordance with RCW 28A.600.010. An appropriate school authority shall promptly notify law enforcement and the student's parent or guardian regarding any allegation or indication of such violation.

Upon the arrest of a person at least 12 years of age and not more than 21 years of age for violating subsection (1)(a) of this section, the person shall be detained or confined in a juvenile or adult facility for up to 72 hours. The person shall not be released within the 72 hours until after the person has been examined and evaluated by the designated crisis responder unless the court in its discretion releases the person sooner after a determination regarding probable cause or on probation bond or bail.

Within 24 hours of the arrest, the arresting law enforcement agency shall refer the person to the designated crisis responder for examination and evaluation under chapter 71.05 or 71.34 RCW and inform a parent or guardian of the person of the arrest, detention, and examination. The designated crisis responder shall examine and evaluate the person subject to the provisions of chapter 71.05 or 71.34 RCW. The examination shall occur at the facility in which the person is detained or confined. If the person has been released on probation, bond, or bail, the examination shall occur wherever is appropriate.

Upon completion of any examination by the designated crisis responder, the results of the examination shall be sent to the court, and the court shall consider those results in making any determination about the person.

The designated crisis responder shall, to the extent permitted by law, notify a parent or guardian of the person that an examination and evaluation has taken place and the results of the examination. Nothing in this subsection prohibits the

delivery of additional, appropriate mental health examinations to the person while the person is detained or confined.

If the designated crisis responder determines it is appropriate, the designated crisis responder may refer the person to the local behavioral health administrative services organization for follow-up services or the health care authority or other community providers for other services to the family and individual.

(3) Subsection (1) of this section does not apply to:

(a) Any student or employee of a private military academy when on the property of the academy;

(b) Any person engaged in military, law enforcement, or school district security activities. However, a person who is not a commissioned law enforcement officer and who provides school security services under the direction of a school administrator may not possess a device listed in subsection (1)(f) of this section unless he or she has successfully completed training in the use of such devices that is equivalent to the training received by commissioned law enforcement officers;

(c) Any person who is involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the firearms of collectors or instructors are handled or displayed;

(d) Any person while the person is participating in a firearms or air gun competition approved by the school or school district;

(e) Any person in possession of a pistol who has been issued a license under RCW 9.41.070, or is exempt from the licensing requirement by RCW 9.41.060, while:

(i) Picking up or dropping off a student; or

(ii) Attending official meetings of a school district board of directors held off school district-owned or leased property;

(f) Any nonstudent at least 18 years of age legally in possession of a firearm or dangerous weapon that is secured within an attended vehicle or concealed from view within a locked unattended vehicle while conducting legitimate business at the school;

(g) Any nonstudent at least 18 years of age who is in lawful possession of an unloaded firearm, secured in a vehicle while conducting legitimate business at the school; or

(h) Any law enforcement officer of the federal, state, or local government agency.

(4) Subsections (1)(c) and (d) of this section do not apply to any person who possesses nun-chu-ka sticks, throwing stars, or other dangerous weapons to be used in martial arts classes authorized to be conducted on the school premises.

(5) Subsection (1)(f)(i) of this section does not apply to any person who possesses a device listed in subsection (1)(f)(i) of this section, if the device is possessed and used solely for the purpose approved by a school for use in a school authorized event, lecture, or activity conducted on the school premises.

(6) Except as provided in subsection (3)(b), (c), (f), and (h) of this section, firearms are not permitted in a public or private school building.

(7) "GUN-FREE ZONE" signs shall be posted around school facilities giving warning of the prohibition of the possession of firearms on school grounds.

(8) A school district board of directors must post signs providing notice of the restrictions on possession of firearms and other weapons under this section at facilities being used for official meetings of the school district board of directors.

**NEW SECTION. Sec. 5.** Section 4 of this act takes effect July 1, 2022. Section 4 of this act takes effect only if Substitute House Bill No. 1224 is enacted into law by the effective date of this section.

Passed by the House March 7, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 23, 2022.

Filed in Office of Secretary of State March 23, 2022.

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## CHAPTER 107

[Engrossed Second Substitute House Bill 1153]

PUBLIC SCHOOLS—LANGUAGE ACCESS

AN ACT Relating to language access in public schools; adding a new section to chapter 28A.710 RCW; adding a new section to chapter 72.40 RCW; adding a new chapter to Title 28A RCW; creating new sections; and repealing RCW 28A.155.230.

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

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

(a) It is the policy of the state to welcome and encourage the presence of diverse cultures and the use of diverse languages and modalities of communication in business, government, and private affairs in this state. To this end, the state has developed interpreter credentialing programs for court, medical, and social service settings.

(b) According to a report from the United States department of education, 50 years of research has shown that family engagement has beneficial impacts on student grades, test scores, drop-out rates, students' sense of competence, and beliefs about the importance of education. In Washington, many students' family members have language access barriers because they prefer to communicate in a language other than English or require communication assistance services. Washington public schools' ability to effectively communicate with students and their family members who have language access barriers plays a vital role in reducing educational opportunity gaps. Failure to provide language access hinders communication between schools and families, which leads to long-term economic costs when a substantial fraction of the students in Washington are not able to realize their full potential.

(c) Effective two way communication between school staff and student's families in educational settings outside the classroom is not taking place for a variety of reasons, including: (i) Some school districts do not consistently assess the language needs of their communities or consistently evaluate the effectiveness of their language access services; (ii) resources, including time and money, are often not prioritized to engage families with language access barriers; and even when language access is a priority, some districts do not know the best practices for engaging families with language access barriers; (iii) school staff are often not trained on how to engage families with language access barriers, how to engage and use interpreters in educational settings outside the classroom, or when to provide translated documents; and (iv) there are not

enough interpreters qualified to work in educational settings outside the classroom.

(d) Providing meaningful, equitable language access to students and their family members who have language access barriers is not only a civil right, but will help students meet the state's basic education goals under RCW 28A.150.210 resulting in a decrease in the educational opportunity gap between learners with language access barriers and other students, because student outcomes improve when families are engaged in their student's education.

(2) Therefore, the legislature intends to require public schools to implement a language access plan and program for culturally responsive, systemic family engagement developed through meaningful stakeholder engagement. The legislature intends to provide training, tools, and other technical assistance to public schools to support the development, implementation, and evaluation of their language access plans and programs. In addition, the legislature intends to direct the development and implementation of credentialing for spoken and sign language interpreters for students' families in educational settings outside the classroom, with the goal of creating a professional interpreter workforce guided by a code of ethics and standards of practice. Finally, the legislature intends to establish an ongoing advisory committee to guide, monitor, and report on the implementation of these new policies.

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

(1) "Interpreter" means a spoken language or sign language interpreter working in a public school, as defined in RCW 28A.150.010, to interpret for students' families, students, and communities in educational settings outside the classroom.

(2) "Qualified interpreter" means an interpreter who is able to interpret effectively, accurately, and impartially, both receptively and expressively using any necessary specialized vocabulary until the office of the superintendent of public instruction and the Washington professional educator standards board establish a different definition in rule making.

(3) "2020 and 2021 reports of the language access work group" means the reports of the language access work group created by section 2, chapter 256, Laws of 2019, and reconvened and expanded by section 501(3)(g), chapter 334, Laws of 2021.

**NEW SECTION. Sec. 3.** The principles of an effective language access program for culturally responsive, systemic family engagement are as follows:

(1) Accessibility and equity. Schools provide access to all; two-way communication is a priority and is woven into the design of all programs and services;

(2) Accountability and transparency. The language access program and decision-making processes at all levels are: Open, accessible, and useable to families; proactive, not reactive; continuously improved based on ongoing feedback from families and staff; and regulated by a clear and just complaint process;

(3) Responsive culture. Schools are safe, compassionate places where each family's opinions are heard, needs are met, and contributions are valued. School staff are humble and empathetic towards families; and



(4) Focus on relationships. Schools seek to relate to families on an individual level, building trust through respectful relationships that recognize the unique strengths that each family and student possesses.

NEW SECTION. Sec. 4. (1) The center for the improvement of student learning established in RCW 28A.300.130 must implement a language access technical assistance program for culturally responsive, systemic family engagement that meets the requirements of this section.

(2) Subject to the availability of amounts appropriated for this specific purpose, the language access technical assistance program must:

(a) Adhere to the principles of an effective language access program for culturally responsive, systemic family engagement established in section 3 of this act;

(b) Provide training and technical assistance to support the implementation of language access programs for culturally responsive, systemic family engagement required under sections 5 and 8 of this act;

(c) Develop and maintain training modules for interpreters on interpreting for students' families and students in educational settings outside the classroom;

(d) Develop, periodically update, and publish a language access toolkit that includes the following resources:

(i) A self-assessment for evaluating the provision of language access services;

(ii) A guide for the development, implementation, and evaluation of a language access policy, procedures, and plan that meets the specific needs of families and the community;

(iii) Best practices for using interpreter services provided by dual role staff and contract interpreters, for using remote interpretation, and for translating documents;

(iv) Language access service evaluation templates for spoken and sign languages;

(v) Information for students' families about their language access rights, translated into English, Spanish, and at least the next nine languages most commonly used by students and their families; and

(vi) Sample job description of school district language access coordinators and building points of contact for language access services;

(e) Develop, periodically update, and publish bilingual glossaries of education terminology;

(f) Analyze and publish language access and language access service information submitted as required under section 6 of this act. In addition to disaggregation by the student race and ethnicity categories and subcategories described in RCW 28A.300.042 (1) and (3), the published information must be disaggregated, to the extent possible, by language, school district and school, type of meeting, and other demographics or categories; and

(g) Provide staff support for the language access advisory committee established in section 10 of this act.

(3) The activities of and resources provided by the language access technical assistance program must take into consideration the recommendations in the 2020 and 2021 reports of the language access work group.

NEW SECTION. **Sec. 5.** (1) Each school district must designate a language access liaison to facilitate district compliance with state and federal laws related to family engagement, including the requirements under this section and section 6 of this act. If a school district has a language access coordinator with duties as described in subsection (4)(c) of this section, the language access coordinator may also be the language access liaison.

(2) By October 1, 2022, each school district must adopt a language access policy and procedures that adheres to the principles of an effective language access program for culturally responsive, systemic family engagement established in section 3 of this act and incorporates the model policy and procedures described in section 9 of this act.

(3) Beginning with the 2023-24 school year, each school district must implement a language access program for culturally responsive, systemic family engagement. Implementation of a language access program requires that a school district, at a minimum, complete the following activities:

(a) Adopt a language access plan that outlines how the school district identifies language access needs, allocates resources, establishes standards for providing language access services, and monitors the effectiveness of the language access program;

(b) Administer the self-assessment for evaluating the provision of language access services, which is part of the toolkit described in section 4 of this act;

(c) Use the guide for the development, implementation, and evaluation of a language access policy, procedures, and plan, which is part of the toolkit described in section 4 of this act. The processes for developing and evaluating the language access policy, procedures, and plan must engage staff, students' families, and other community members in ways likely to result in timely and meaningful feedback, for example partnering with community based organizations and providing translation and interpretation in common languages understood by students' families;

(d) Review, periodically, the language access policy and procedures adopted as required under subsection (2) of this section to incorporate updates made to the model policy and procedures described in section 9 of this act;

(e) Collaborate with community-based organizations on how to work effectively with interpreters; and

(f) Review, update, and publish, at least annually, information about the school district's language access plan, policy and procedures, and language access services, including the need for, and spending on, language access services. The information must include notice to families about their right to free language access services and the contact information for any school district language access coordinator and any building points of contact for language access services. The information must be translated into common languages understood by students' families.

(4)(a) Except as required under (b) of this subsection, school districts are encouraged to have a language access coordinator with the duties described in (c) of this subsection.

(b) Beginning with the 2023-24 school year, school districts with at least 50 percent English learner enrollment or greater than 75 languages used by students or families must either: (i) Have a full-time language access coordinator with the duties described in (c) of this subsection; or (ii) annually report to the office of

the superintendent of public instruction the total number of hours school district staff spent performing the language access coordinator duties described in (c) of this subsection and other information as required by the office of the superintendent of public instruction.

(c) The duties of the school district language access coordinator are to: (i) Serve as the primary contact for families, community members, school district staff responsible for monitoring compliance with chapter 28A.642 RCW, the office of the superintendent of public instruction, and the office of the education ombuds on issues related to language access needs and language access services; (ii) collaborate with any building points of contact for language access services; (iii) receive training and technical assistance provided under section 4 of this act; and (iv) deliver language access training and support to school district staff.

(5) The requirements in this section do not apply to school districts with both fewer than 1,000 enrolled students and less than 10 percent English learner enrollment.

**NEW SECTION. Sec. 6.** (1) School districts must annually collect the following language access and language access service information for use by the school district:

(a) The language in which each student and student's family prefers to communicate;

(b) Whether a qualified interpreter for the student's family was requested for and provided at meetings reported in the longitudinal student data system established under RCW 28A.300.500; and

(c) Other data on provision of language access services.

(2) School districts must submit the information collected under subsection (1) of this section at the time and in the manner required by the office of the superintendent of public instruction.

(3) Beginning in the 2023-24 school year, school districts must provide an opportunity for participants in each interpreted meeting to provide feedback on the effectiveness of the interpretation and the provision of language access services.

**NEW SECTION. Sec. 7.** A new section is added to chapter 28A.710 RCW to read as follows:

Sections 5 and 6 of this act govern school operation and management under RCW 28A.710.040 and apply to charter schools established under this chapter.

**NEW SECTION. Sec. 8.** A new section is added to chapter 72.40 RCW to read as follows:

The center for deaf and hard of hearing youth and the state school for the blind must comply with the requirements in sections 5 and 6 of this act.

**NEW SECTION. Sec. 9.** (1) By August 1, 2022, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to update a model policy and procedures for implementing a language access program for culturally responsive, systemic family engagement.

(a) When updating the model policy and procedures, the Washington state school directors' association must perform a racial equity impact analysis that involves the community.

(b) The model policy and procedure must include procedures for the school district board of directors to annually review the spending on and the need for language access services.

(c) The model policy and procedure must address procedures for effective communication with students' families who are deaf, deaf and blind, blind, hard of hearing, or need other communication assistance.

(d) The elements of the model policy and procedures must take into consideration the recommendations in the 2020 and 2021 reports of the language access work group.

(2) The office of the superintendent of public instruction and the Washington state school directors' association must maintain the model policy and procedures on each agency's website, at no cost to school districts.

**NEW SECTION. Sec. 10.** (1) The office of the superintendent of public instruction shall establish the language access advisory committee to guide and monitor the implementation of this act and to recommend changes to requirements, policies, and procedures related to language access and language access services for students' families, students, and communities in educational settings outside the classroom.

(2) At a minimum, the advisory committee must guide, monitor, and make recommendations on the following topics:

(a) The effectiveness of language access policies, procedures, and programs;

(b) Family and community engagement, with a focus on multicultural families, families whose students have multiple barriers to student achievement, and families least engaged with their schools;

(c) The definition of "qualified interpreter";

(d) Supply of and demand for interpreters;

(e) Training for interpreters;

(f) Credentialing requirements for interpreters, including a code of professional conduct;

(g) Grants to cover nonstate controlled interpreter credentialing requirement costs;

(h) Language access and language access service data collection and analysis; and

(i) Evidence-based practices regarding language access, including best practice for using state and federal funding to provide language access services.

(3)(a) The members of the advisory committee must include representatives from spoken and sign language services users, community organizations that provide direct services to non-English speaking families, interpreters for students' families, interpreter preparation programs, advocacy organizations, schools, and school districts.

(b) Members of the advisory committee must be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. Subject to available funding and as determined by the office of the superintendent of public instruction, members of the advisory committee who do not receive compensation from their employer or contractor for attendance, either in person or virtually, at a meeting of the advisory committee are eligible for a stipend.

(4) Staff support for the advisory committee must be provided by the language access technical assistance program described in section 4 of this act, except with respect to credentialing requirements for interpreters, for which staff

support must also be provided by the Washington professional educator standards board.

(5) The advisory committee must collaborate with the Washington professional educator standards board, the Washington state office of equity established in RCW 43.06D.020, the educational opportunity gap oversight and accountability committee created in RCW 28A.300.136, and other office of the superintendent of public instruction committees that focus on ensuring equity in access to opportunities for all students.

(6) By November 1, 2024, and periodically thereafter, the advisory committee must submit, in compliance with RCW 43.01.036, a report on implementation of this chapter to the office of the superintendent of public instruction, the Washington professional educator standards board, the governor, and the appropriate committees of the legislature.

**NEW SECTION. Sec. 11.** (1) The office of the superintendent of public instruction and the Washington professional educator standards board shall collaborate to establish credentialing requirements for interpreters as described in this section.

(2) Prior to establishing new credentialing requirements for interpreters, the office of the superintendent of public instruction and the Washington professional educator standards board must consult with the language access advisory committee established in section 10 of this act.

(3) The credentialing requirements for interpreters must take into consideration the recommendations in the 2020 and 2021 reports of the language access work group.

(4) Credentialing requirements for interpreters, which must include minimum employment requirements, may be phased in as training and testing options become available and may be tiered based on the structure and significance of the interaction between school staff and the student's family.

(5) The office of the superintendent of public instruction and the Washington professional educator standards board must establish, and periodically update, a definition of "qualified interpreter" for purposes of this chapter and for other purposes.

(6) Once a code of professional conduct for interpreters is established, the superintendent of public instruction has the power to issue, suspend, and revoke interpreter credentials to which the code applies and to take other disciplinary actions against interpreters to which the code applies.

(7) Any activities provided by the office of the superintendent of public instruction or the professional educator standards board that are required to meet credentialing requirements, including training, testing, and applications, must be made available at no cost to people who want to be interpreters.

(8) The electronic educator certification process must be adapted to include interpreter credentials.

**NEW SECTION. Sec. 12.** The office of the superintendent of public instruction and the Washington professional educator standards board may adopt rules under chapter 34.05 RCW that are necessary for the effective and efficient implementation of this chapter.

**NEW SECTION. Sec. 13.** RCW 28A.155.230 (Student language) and 2019 c 256 s 3 are each repealed.

NEW SECTION. Sec. 14. Sections 2 through 6 and 9 through 12 of this act constitute a new chapter in Title 28A RCW.

**\*NEW SECTION. Sec. 15.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

*\*Sec. 15 was vetoed. See message at end of chapter.*

Passed by the House March 8, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 23, 2022, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 23, 2022.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 15, Engrossed Second Substitute House Bill No. 1153 entitled:

"AN ACT Relating to language access in public schools."

Engrossed Second Substitute House Bill 1153 provides for expanded language access programs in public schools. Funding was provided for the work at the Office of Superintendent of Public Instruction, the School for the Blind, and the Center for Deaf and Hard of Hearing Youth, but funding was not explicitly provided for the Office of Equity. Section 15 is a null and void clause, which may operate to nullify the entire bill because funding was not explicitly provided for the Office of Equity. Therefore, I am vetoing Section 15 of this bill in order to ensure that this important work occurs.

For these reasons I have vetoed Section 15 of Engrossed Second Substitute House Bill No. 1153.

With the exception of Section 15, Engrossed Second Substitute House Bill No. 1153 is approved."

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## CHAPTER 108

[Substitute House Bill 1590]

### PUBLIC SCHOOLS—ENROLLMENT STABILIZATION FUNDING—COVID-19 PANDEMIC

AN ACT Relating to enrollment stabilization funding to address enrollment declines due to the COVID-19 pandemic; amending RCW 28A.500.015; reenacting and amending RCW 84.52.0531; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature recognizes that the COVID-19 pandemic has impacted the delivery of education across the state, as school districts resume in-person instructional models with heightened efforts to protect the health and well-being of students and staff and address the pandemic's impact on student learning. The legislature also recognizes that state funding formulas are largely driven by enrollment, and the pandemic has resulted in unforeseen, temporary enrollment declines in many districts. Funding declines due to temporary, unforeseen changes in enrollment can affect a district's ability to maintain the staffing and resources needed to deliver education services. Stabilization funding in the 2020-21 school year provided important support for schools to maintain services amid enrollment declines. With this act and in the omnibus operating appropriations act, the legislature intends to extend stabilizing funding to districts that have seen temporary enrollment declines due to the COVID-19 pandemic for the final time.

**NEW SECTION. Sec. 2.** (1) If a local education agency's combined state revenue generated in the 2021-22 school year is less than what its combined state revenue would be using 2019-20 annual average enrollment values and formulas in place for the 2021-22 school year, then the superintendent of public instruction must provide an enrollment stabilization amount to the local education agency in the 2021-22 school year. The enrollment stabilization amount shall be equal to 50 percent of the local education agency low enrollment impact.

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

(a) "Combined state revenue" means the combined amount from the following allocations to local education agencies:

(i) General apportionment allocations as described in RCW 28A.150.260;

(ii) Special education allocations as described in RCW 28A.150.390. Allocations for special education enrollment above 2021-22 levels in kindergarten through 12th grades must be based on an excess cost multiplier of 0.995;

(iii) Learning assistance program allocations as described in RCW 28A.150.260(10)(a). Learning assistance program allocations based on 2019-20 enrollments must include the prior years' free or reduced-price meal percentages used for allocations in the 2020-21 school year;

(iv) Transitional bilingual program allocations as described in RCW 28A.150.260(10)(b);

(v) Highly capable program allocations as described in RCW 28A.150.260(10)(c);

(vi) Career and technical education and skill centers allocations as described in RCW 28A.150.260 (4)(c), (7), and (9);

(vii) Allocations to support institutional education for residential schools as defined by RCW 28A.190.005 and of juveniles in detention facilities as identified by RCW 28A.190.010;

(viii) Dropout reengagement program allocations for eligible students under RCW 28A.175.100;

(ix) Alternative learning experience allocations as described in RCW 28A.232.020; and

(x) Running start allocations as described in RCW 28A.600.310.

(b) "Local education agency" means a school district, charter school, or state-tribal education compact school established under chapter 28A.715 RCW.

(c) "Local education agency low enrollment impact" is equal to a local education agency's combined state revenue that would be generated using 2019-20 annual average enrollment values and formulas in place for the 2021-22 school year minus its combined state revenue generated in the 2021-22 school year, if the difference is greater than zero.

(3) Enrollment stabilization amounts allocated under this section are not part of the state's program of basic education but may be used for any allowable cost within any of the programs.

**Sec. 3.** RCW 84.52.0531 and 2021 c 221 s 2 and 2021 c 145 s 22 are each reenacted and amended to read as follows:

(1) Beginning with taxes levied for collection in 2020, the maximum dollar amount which may be levied by or for any school district for enrichment levies

under RCW 84.52.053 is equal to the lesser of two dollars and fifty cents per thousand dollars of the assessed value of property in the school district or the maximum per-pupil limit. This maximum dollar amount shall be reduced accordingly as provided under RCW 43.09.2856(2).

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

(a) For the purpose of this section, "inflation" means the percentage change in the seasonally adjusted consumer price index for all urban consumers, Seattle area, for the most recent 12-month period as of September 25th of the year before the taxes are payable, using the official current base compiled by the United States bureau of labor statistics.

(b) "Maximum per-pupil limit" means:

(i) Two thousand five hundred dollars, as increased by inflation beginning with property taxes levied for collection in 2020, multiplied by the number of average annual full-time equivalent students enrolled in the school district in the prior school year, for school districts with fewer than forty thousand annual full-time equivalent students enrolled in the school district in the prior school year; or

(ii) Three thousand dollars, as increased by inflation beginning with property taxes levied for collection in 2020, multiplied by the number of average annual full-time equivalent students enrolled in the school district in the prior school year, for school districts with forty thousand or more annual full-time equivalent students enrolled in the school district in the prior school year.

(c) "Open for in-person instruction to all students" means that all students in all grades have the option to participate in at least 40 hours of planned in-person instruction per month and the school follows state department of health guidance and recommendations for resuming in-person instruction to the greatest extent practicable.

(d) "Prior school year" means the most recent school year completed prior to the year in which the levies are to be collected, except (~~that in~~) as follows:

(i) In the 2022 calendar year, if 2019-20 school year average annual full-time equivalent enrollment is greater than the school district's 2020-21 school year average annual full-time equivalent enrollment and the school district is open for in-person instruction to all students by the beginning of the 2021-22 school year, "prior school year" means the 2019-20 school year.

(ii) In the 2023 calendar year, if 2019-20 school year average annual full-time equivalent enrollment is greater than the school district's 2021-22 school year average annual full-time equivalent enrollment and the school district was open for in-person instruction to all students by the beginning of the 2021-22 school year, "prior school year" means the 2019-20 school year.

(3) For districts in a high/nonhigh relationship, the enrollments of the nonhigh students attending the high school shall only be counted by the nonhigh school districts for purposes of funding under this section.

(4) For school districts participating in an innovation academy cooperative established under RCW 28A.340.080, enrollments of students attending the academy shall be adjusted so that each participant district receives its proportional share of student enrollments for purposes of funding under this section.



(5) Beginning with propositions for enrichment levies for collection in calendar year 2020 and thereafter, a district must receive approval of an enrichment levy expenditure plan under RCW 28A.505.240 before submission of the proposition to the voters.

(6) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.

(7) Beginning with taxes levied for collection in 2018, enrichment levy revenues must be deposited in a separate subfund of the school district's general fund pursuant to RCW 28A.320.330, and for the 2018-19 school year are subject to the restrictions of RCW 28A.150.276 and the audit requirements of RCW 43.09.2856.

(8) Funds collected from levies for transportation vehicles, construction, modernization, or remodeling of school facilities as established in RCW 84.52.053 are not subject to the levy limitations in subsections (1) through (5) of this section.

**Sec. 4.** RCW 28A.500.015 and 2019 c 410 s 1 are each amended to read as follows:

(1) Beginning in calendar year 2020 and each calendar year thereafter, the state must provide state local effort assistance funding to supplement school district enrichment levies as provided in this section.

(2)(a) For an eligible school district with an actual enrichment levy rate that is less than one dollar and fifty cents per thousand dollars of assessed value in the school district, the annual local effort assistance funding is equal to the school district's maximum local effort assistance multiplied by a fraction equal to the school district's actual enrichment levy rate divided by one dollar and fifty cents per thousand dollars of assessed value in the school district.

(b) For an eligible school district with an actual enrichment levy rate that is equal to or greater than one dollar and fifty cents per thousand dollars of assessed value in the school district, the annual local effort assistance funding is equal to the school district's maximum local effort assistance.

(c) Beginning in calendar year 2022, for state-tribal education compact schools established under chapter 28A.715 RCW, the annual local effort assistance funding is equal to the actual enrichment levy per student as calculated by the superintendent of public instruction for the previous year for the school district in which the state-tribal education compact school is located, up to a maximum per student amount of one thousand five hundred fifty dollars as increased by inflation from the 2019 calendar year, multiplied by the student enrollment of the state-tribal education compact school in the prior school year.

~~((d) For a school district that meets the criteria in this subsection and is located west of the Cascades in a county that borders another state, the annual local effort assistance funding is equal to the local effort assistance funding authorized under (b) of this subsection and additional local effort assistance funding equal to the following amounts:~~

~~(i) Two hundred forty six dollars per pupil in the 2019-20 school year for a school district with more than twenty five thousand annual full-time equivalent students; and~~

~~(ii) Two hundred eighty six dollars per pupil in the 2019-20 school year for a school district with more than twenty thousand annual full-time equivalent~~

~~enrolled students but fewer than twenty five thousand annual full-time equivalent enrolled students.))~~

(3) The state local effort assistance funding provided under this section is not part of the state's program of basic education deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution.

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

(a) "Eligible school district" means a school district where the amount generated by a levy of one dollar and fifty cents per thousand dollars of assessed value in the school district, divided by the school district's total student enrollment in the prior school year, is less than the state local effort assistance threshold.

(b) For the purpose of this section, "inflation" means, for any school year, the rate of the yearly increase of the previous calendar year's annual average consumer price index for all urban consumers, Seattle area, using the official current base compiled by the bureau of labor statistics, United States department of labor.

(c) "Maximum local effort assistance" means the difference between the following:

(i) The school district's actual prior school year enrollment multiplied by the state local effort assistance threshold; and

(ii) The amount generated by a levy of one dollar and fifty cents per thousand dollars of assessed value in the school district.

(d) "Prior school year" means the most recent school year completed prior to the year in which the state local effort assistance funding is to be distributed, except as follows:

(i) In the 2022 calendar year, if 2019-20 school year average annual full-time equivalent enrollment is greater than the school district's 2020-21 school year average annual full-time equivalent enrollment, "prior school year" means the 2019-20 school year.

(ii) In the 2023 calendar year, if 2019-20 school year average annual full-time equivalent enrollment is greater than the school district's 2021-22 school year average annual full-time equivalent enrollment, "prior school year" means the 2019-20 school year.

(e) "State local effort assistance threshold" means one thousand five hundred fifty dollars per student, increased for inflation beginning in calendar year 2020.

(f) "Student enrollment" means the average annual full-time equivalent student enrollment.

(5) For districts in a high/nonhigh relationship, the enrollments of the nonhigh students attending the high school shall only be counted by the nonhigh school districts for purposes of funding under this section.

(6) For school districts participating in an innovation academy cooperative established under RCW 28A.340.080, enrollments of students attending the academy shall be adjusted so that each participant district receives its proportional share of student enrollments for purposes of funding under this section.

**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 House March 8, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 23, 2022.

Filed in Office of Secretary of State March 23, 2022.

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## CHAPTER 109

[Second Substitute House Bill 1664]

### PUBLIC SCHOOLS—PROTOTYPICAL FORMULAS—PHYSICAL, SOCIAL, AND EMOTIONAL SUPPORT

AN ACT Relating to prototypical school formulas for physical, social, and emotional support in schools; amending RCW 28A.400.007, 28A.150.100, and 28A.150.410; reenacting and amending RCW 28A.150.260 and 28A.150.260; adding a new section to chapter 28A.300 RCW; creating new sections; providing effective dates; and providing expiration dates.

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

**NEW SECTION. Sec. 1.** The legislature recognizes that school nurses, social workers, psychologists, and school counselors are uniquely qualified to provide essential supports that address the physical, social, and emotional needs of students. As the COVID-19 pandemic continues to impact the health and well-being of students, the need for comprehensive student supports has grown beyond what is currently funded in the prototypical school model. Therefore, the legislature intends to provide increased allocations to school districts that demonstrate they have hired staff for these roles. The legislature hopes that this enhanced state funding will allow school districts to redirect local levy dollars previously spent on these positions to address learning loss resulting from the COVID-19 pandemic or to hire additional physical, social, and emotional support staff.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) By February 1, 2023, and by February 1st every odd-numbered year thereafter, the office of the superintendent of public instruction shall submit, in accordance with RCW 43.01.036, to the appropriate committees of the legislature a report analyzing the implementation of RCW 28A.150.260(5)(b), related to physical, social, and emotional support staff.

(2) For the analysis, the office of the superintendent of public instruction must use personnel data reported on or around October 1st of the report year and the prior year, and any other relevant data.

(3) Except as provided in subsection (4) of this section, the report must:

(a) Compare the staffing units provided for nurses, social workers, psychologists, counselors, classified staff providing student and staff safety, and parent involvement coordinators under RCW 28A.150.260(5) to the actual school district staffing levels for physical, social, and emotional support staff, disaggregate by school district; and

(b) Analyze trends with respect to: (i) Employed staff and contract staff; and (ii) the percentage of staff with a valid educational staff associate certificate.

These trends must be disaggregated by assignment duty code, as well as analyzed year over year and by school district size and geography.

(4) For the report due February 1, 2023, the office of the superintendent of public instruction is required to complete the analysis described in subsection (3) of this section only to the extent that relevant data are available.

(5) For the purposes of this section, "physical, social, and emotional support staff" or "staff" has the same meaning as in RCW 28A.150.260(5)(b).

(6) This section expires June 30, 2030.

**Sec. 3.** RCW 28A.150.260 and 2020 c 288 s 4 and 2020 c 61 s 4 are each reenacted and 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 (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 six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred 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 twelve 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 . . . . . ((20.00)) 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 fifty 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
<del>((Health and social services:</del>			
<del>School nurses</del>	<del>0.076</del>	<del>0.060</del>	<del>0.096</del>
<del>Social workers</del>	<del>0.042</del>	<del>0.006</del>	<del>0.015</del>
<del>Psychologists</del>	<del>0.017</del>	<del>0.002</del>	<del>0.007</del>
<del>Guidance counselors, a function that includes parent outreach and graduation advising</del>	<del>0.493</del>	<del>1.216</del>	<del>2.539</del> )
Teaching assistance, including any aspect of educational instructional services provided by classified employees	0.936	0.700	0.652
Office support and other noninstructional aides	2.012	2.325	3.269
Custodians	1.657	1.942	2.965
<u>Nurses</u>	<u>0.246</u>	<u>0.336</u>	<u>0.339</u>

<u>Social workers</u>	<u>0.132</u>	<u>0.033</u>	<u>0.052</u>
<u>Psychologists</u>	<u>0.046</u>	<u>0.009</u>	<u>0.021</u>
<u>Counselors</u>	<u>0.660</u>	<u>1.383</u>	<u>2.706</u>
Classified staff providing student and staff safety	0.079	0.092	0.141
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) and (c) 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) For the 2023-24 school year, in addition to the minimum allocation under (a) of this subsection, the following additional staffing units for each level of prototypical school will be provided:

	<u>Elementary</u>	<u>Middle</u>	<u>High</u>
	<u>School</u>	<u>School</u>	<u>School</u>
<u>Nurses</u>	<u>0.170</u>	<u>0.276</u>	<u>0.243</u>
<u>Social workers</u>	<u>0.090</u>	<u>0.027</u>	<u>0.037</u>
<u>Psychologists</u>	<u>0.029</u>	<u>0.007</u>	<u>0.014</u>
<u>Counselors</u>	<u>0.167</u>	<u>0.167</u>	<u>0.176</u>

(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 twelve 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 twelve;

(b) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and



(c) Preparatory career and technical education courses for students in grades eleven and twelve 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 twelve 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 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 fifteen 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 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 fifty 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 fifteen 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.

(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 twelve, with fifteen 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 fifteen 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. 4.** RCW 28A.150.260 and 2020 c 288 s 4 and 2020 c 61 s 4 are each reenacted and 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 (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 six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred 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 twelve 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 . . . . .	((20.00)) <u>19.00</u>

(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 fifty 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
<del>((Health and social services:</del>			
<del>School nurses</del>	<del>0.076</del>	<del>0.060</del>	<del>0.096</del>
<del>Social workers</del>	<del>0.042</del>	<del>0.006</del>	<del>0.015</del>
<del>Psychologists</del>	<del>0.017</del>	<del>0.002</del>	<del>0.007</del>
<del>Guidance counselors, a function that includes parent outreach and graduation advising</del>	<del>0.493</del>	<del>1.216</del>	<del>2.539</del> )
Teaching assistance, including any aspect of educational instructional services provided by classified employees	0.936	0.700	0.652
Office support and other noninstructional aides	2.012	2.325	3.269
Custodians	1.657	1.942	2.965
<u>Nurses</u>	<u>0.585</u>	<u>0.888</u>	<u>0.824</u>
<u>Social workers</u>	<u>0.311</u>	<u>0.088</u>	<u>0.127</u>
<u>Psychologists</u>	<u>0.104</u>	<u>0.024</u>	<u>0.049</u>
<u>Counselors</u>	<u>0.993</u>	<u>1.716</u>	<u>3.039</u>
Classified staff providing student and staff safety	0.079	0.092	0.141
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.

(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 twelve 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 twelve;
- (b) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and
- (c) Preparatory career and technical education courses for students in grades eleven and twelve 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 twelve 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 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 fifteen 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 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 fifty 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 fifteen 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.

(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 twelve, with fifteen 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 fifteen 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. 5.** RCW 28A.400.007 and 2017 3rd sp.s. c 13 s 904 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
<del>((Health and social services:</del>			
<del>School nurses</del>	<del>0.5090</del>	<del>0.8280</del>	<del>0.7280</del>
<del>Social workers</del>	<del>0.2690</del>	<del>0.0820</del>	<del>0.1120</del>
<del>Psychologists</del>	<del>0.0870</del>	<del>0.0220</del>	<del>0.0420</del>
<del>Guidance counselors, a function that includes parent outreach and graduation advising</del>	<del>0.0070</del>	<del>0.7840</del>	<del>0.9610</del>
		)	)

	Elementary School	Middle School	High School
Teaching assistance, including any aspect of educational instructional services provided by classified employees	1.0640	0.3000	0.3480
Office support and other noninstructional aides	0.9880	1.1750	0.2310
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	<del>((4.00))</del> 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.

**Sec. 6.** RCW 28A.150.100 and 2013 2nd sp.s. c 18 s 512 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" means all full-time equivalent classroom teachers, teacher-librarians, (~~(guidance)~~) counselors, certificated student health services staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) Each school district shall maintain a ratio of at least (~~(forty-six)~~) 46 basic education certificated instructional staff to (~~(one thousand)~~) 1,000 annual average full-time equivalent students. This requirement does not apply to that portion of a district's annual average full-time equivalent enrollment that is enrolled in alternative learning experience courses as defined in RCW 28A.232.010.

**Sec. 7.** RCW 28A.150.410 and 2018 c 266 s 202 are each amended to read as follows:

(1) Through the 2017-18 school year, the legislature shall establish for each school year in the appropriations act a statewide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.150.260. For the purposes of this section, the staff allocations for classroom teachers, teacher-librarians, (~~(guidance)~~) counselors, and student health services staff under RCW 28A.150.260 are considered allocations for certificated instructional staff.

(2) Through the 2017-18 school year, salary allocations for state-funded basic education certificated instructional staff shall be calculated by the superintendent of public instruction by determining the district's average salary for certificated instructional staff, using the statewide salary allocation schedule and related documents, conditions, and limitations established by the omnibus appropriations act.

(3) Through the 2017-18 school year, no more than (~~(ninety)~~) 90 college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the omnibus appropriations act, or any replacement schedules and documents, unless:

(a) The employee has a master's degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

(4) Beginning in the 2007-08 school year and through the 2017-18 school year, the calculation of years of service for occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, and psychologists regulated under Title 18 RCW may include experience in schools and other nonschool positions as occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, or psychologists. The calculation shall be that one year of service in a nonschool position counts as one year of service for purposes of this chapter, up to a limit of two years of nonschool service. Nonschool years of service included in calculations under this subsection shall not be applied to service credit totals for purposes of any retirement benefit under chapter 41.32, 41.35, or 41.40 RCW, or any other state retirement system benefits.

(5) By the 2018-19 school year, the minimum state allocation for salaries for certificated instructional staff in the basic education program must be increased to provide a statewide average allocation of (~~sixty-four thousand dollars~~) \$64,000 adjusted for inflation from the 2017-18 school year.

(6) By the 2018-19 school year, the minimum state allocation for salaries for certificated administrative staff in the basic education program must be increased to provide a statewide average allocation of (~~ninety-five thousand dollars~~) \$95,000 adjusted for inflation from the 2017-18 school year.

(7) By the 2018-19 school year, the minimum state allocation for salaries for classified staff in the basic education program must be increased to provide a statewide average allocation of (~~forty-five thousand nine hundred twelve dollars~~) \$45,912 adjusted by inflation from the 2017-18 school year.

(8) For school year 2018-19, a district's minimum state allocation for salaries is the greater of the district's 2017-18 state salary allocation, adjusted for inflation, or the district's allocation based on the state salary level specified in subsections (5) through (7) of this section, and as further specified in the omnibus appropriations act.

(9) Beginning with the 2018-19 school year, state allocations for salaries for certificated instructional staff, certificated administrative staff, and classified staff must be adjusted for regional differences in the cost of hiring staff. Adjustments for regional differences must be specified in the omnibus appropriations act for each school year through at least school year 2022-23. For school years 2018-19 through school year 2022-23, the school district regionalization factors are based on the median single-family residential value of each school district and proximate school district median single-family residential value as described in RCW 28A.150.412.

(10) Beginning with the 2023-24 school year and every four years thereafter, the minimum state salary allocations and school district regionalization factors for certificated instructional staff, certificated administrative staff, and classified staff must be reviewed and rebased, as provided under RCW 28A.150.412, to ensure that state salary allocations continue to align with staffing costs for the state's program of basic education.

(11) For the purposes of this section, "inflation" has the meaning provided in RCW 28A.400.205 for "inflationary adjustment index."

**NEW SECTION. Sec. 8.** Sections 3, 6, and 7 of this act take effect September 1, 2022.

**NEW SECTION. Sec. 9.** Section 3 of this act expires September 1, 2024.

**NEW SECTION. Sec. 10.** Sections 4 and 5 of this act take effect September 1, 2024.

**NEW SECTION. Sec. 11.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the House March 7, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 23, 2022.

Filed in Office of Secretary of State March 23, 2022.

## CHAPTER 110

[Engrossed Substitute House Bill 1699]

## SCHOOL DISTRICT EMPLOYEES—RETIRED INDIVIDUALS—PENSION

AN ACT Relating to permitting individuals retired from the public employees retirement system, the teachers retirement system, and the school employees retirement system additional opportunities to work for a school district for up to 1,040 hours per school year while in receipt of pension benefits until July 1, 2025; amending RCW 41.32.570, 41.32.802, 41.32.862, 41.35.060, and 41.40.037; repealing RCW 41.35.065 and 41.32.068; and declaring an emergency.

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

**Sec. 1.** RCW 41.32.570 and 2011 1st sp.s. c 47 s 10 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any monthly benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) Any retired teacher or retired administrator who enters service in any public educational institution in Washington state at least one calendar month after his or her accrual date shall cease to receive pension payments while engaged in such service, after the retiree has rendered service for more than eight hundred sixty-seven hours in a school year.

(3)(a) Between the effective date of this section and July 1, 2025, a retiree who reenters employment more than one calendar month after his or her accrual date, and who enters service in a school district in a nonadministrative position shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a school year.

(b) Between the effective date of this section and July 1, 2025, a retiree that retired before January 1, 2022, and who enters service in a second-class school district, as defined in RCW 28A.300.065, as either a district superintendent or an in-school administrator shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a school year.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

~~((4))~~ (5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five hundred twenty-five hours per year without a reduction of his or her pension.

**Sec. 2.** RCW 41.32.802 and 2011 1st sp.s. c 47 s 12 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours

worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(b) A retiree who has retired under the alternate early retirement provisions of RCW 41.32.765(3)(b) may be employed with an employer for up to 867 hours per calendar year without suspension of his or her benefit, provided that: (i) The retired teacher reenters employment more than one calendar month after his or her accrual date and after June 9, 2016; and (ii) the retired teacher is employed in a nonadministrative capacity.

(c)(i) Between the effective date of this section and July 1, 2025, a retiree who reenters employment more than one month after his or her accrual date, and who enters service in a school district in a nonadministrative position shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(ii) Between the effective date of this section and July 1, 2025, a retiree that retired before January 1, 2022, and who enters service in a second-class school district, as defined in RCW 28A.300.065, as either a district superintendent or an in-school administrator shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(iii) The legislature reserves the right to amend or repeal this subsection (2)(c) in the future and no member or beneficiary has a contractual right to be employed for more than 867 hours in a calendar year without a reduction of his or her pension.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

**Sec. 3.** RCW 41.32.862 and 2011 1st sp.s. c 47 s 14 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(b) A retiree who has retired under the alternate early retirement provisions of RCW 41.32.875(3)(b) may be employed with an employer for up to 867 hours per calendar year without suspension of his or her benefit, provided that: (i) The retired teacher reenters employment more than one calendar month after his or her accrual date and after June 9, 2016; and (ii) the retired teacher is employed in a nonadministrative capacity.

(c)(i) Between the effective date of this section and July 1, 2025, a retired teacher or retired administrator who reenters employment more than one month after his or her accrual date, and who enters service in a school district in a nonadministrative position shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(ii) Between the effective date of this section and July 1, 2025, a retiree that retired before January 1, 2022, and who enters service in a second-class school district, as defined in RCW 28A.300.065, as either a district superintendent or an in-school administrator shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(iii) The legislature reserves the right to amend or repeal this subsection (2)(c) in the future and no member or beneficiary has a contractual right to be employed for more than 867 hours in a calendar year without a reduction of his or her pension.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

**Sec. 4.** RCW 41.35.060 and 2011 1st sp.s. c 47 s 15 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one

hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(b) A retiree in the school employees' retirement system plan 2 or plan 3 who has retired under the alternate early retirement provisions of RCW 41.35.420(3)(b) may be employed with an employer for up to 867 hours per calendar year without suspension of his or her benefit, provided that: (i) The retiree reenters employment more than one calendar month after his or her accrual date; and (ii) the retiree is employed in a nonadministrative position.

(c) Between the effective date of this section and July 1, 2025, a retiree, including a retiree who has retired under the alternate early retirement provisions of RCW 41.35.420(3)(b) or 41.35.680(3)(b), who reenters employment more than one month after his or her accrual date, and who enters service in a school district in a nonadministrative position shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year. The legislature reserves the right to amend or repeal this subsection (2)(c) in the future and no member or beneficiary has a contractual right to be employed for more than 867 hours in a calendar year without a reduction of his or her pension.

(3) If the retiree opts to reestablish membership under RCW 41.35.030, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.35.420 or 41.35.680. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

**Sec. 5.** RCW 41.40.037 and 2015 c 75 s 1 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) A retiree from plan 1, plan 2, or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in



RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(b) Between the effective date of this section and July 1, 2025, a retiree, including a retiree who has retired under the alternate early retirement provisions of RCW 41.40.630(3)(b) or 41.40.820(3)(b), who reenters employment more than 100 days after his or her accrual date, and who enters service in a school district in a nonadministrative position shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

(1) RCW 41.35.065 (Postretirement employment options) and 2019 c 295 s 308; and

(2) RCW 41.32.068 (Postretirement employment options) and 2019 c 295 s 307 & 2016 c 233 s 7.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 10, 2022.

Passed by the Senate March 10, 2022.

Approved by the Governor March 23, 2022.

Filed in Office of Secretary of State March 23, 2022.

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## CHAPTER 111

[House Bill 1833]

### SCHOOL MEALS—HOUSEHOLD INCOME INFORMATION—ELECTRONIC REPOSITORY

AN ACT Relating to establishing an electronic option for the submission of household income information required for participation in school meals and programs; adding a new section to chapter 28A.235 RCW; and adding a new section to chapter 42.56 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 28A.235 RCW to read as follows:

(1) The office of the superintendent of public instruction shall initiate and oversee the development and implementation of a statewide electronic repository of household income information that is required for a student's enrollment in, or eligibility for, the national school lunch program, the school breakfast program, or both programs for the purpose of:

(a) Removing barriers that diminish access to free and reduced-price meals by students enrolled in eligible schools;

(b) Providing parents and legal guardians of students enrolled in eligible schools with a voluntary, secure, and convenient online portal for providing household information that is required for participation in the national school lunch program, the school breakfast program, or both programs;

(c) Providing student household income information to schools and school districts that provide meals at no charge to students without using school meal applications to determine eligibility for low-income programs for students and schools; and

(d) Ensuring an accessible, simplified process for enrolling students in, and administering, related nutrition programs, including the summer P-EBT program.

(2) In addition to the requirements of this section and other requirements deemed necessary by the superintendent of public instruction, the superintendent of public instruction shall ensure the electronic repository:

(a) Complies with any applicable federal requirements for participation in the national school lunch program, the school breakfast program, or both programs;

(b) Complies with any applicable requirements necessary for schools and school districts to access repository data;

(c) Complies with any applicable standards and requirements necessary to ensure that the repository data connects to the direct certification system and streamlines the process in a manner that maximizes the number of eligible students directly certified for free school meals each month;

(d) Includes robust safeguards, both technically and procedurally, to ensure that the income information provided by parents and legal guardians is secure and accessed only by individuals with express authorization to do so; and

(e) Is accessible online and easily navigable by parents and legal guardians, and in multiple languages, for the purpose of voluntarily providing the pertinent household income data.

(3) Household income information received by the office of the superintendent of public instruction, school employees, school district employees, or their designees in accordance with this section is exempt from disclosure under chapter 42.56 RCW and may not be disseminated except as provided by law.

(4)(a) Beginning in 2022, the office of the superintendent of public instruction shall report annually to the legislature by December 1st on the electronic repository, including: (i) The number of schools and school districts accessing the data of the electronic repository for providing household information that is required for a school's participation in the national school

lunch program, the school breakfast program, or both programs; and (ii) recommendations for increasing the number of repository users and improving the technical functionality of the repository.

(b) In lieu of the report contents required in (a) of this subsection, the report required by December 1, 2022, shall include a plan, timeline, and cost estimate for: (i) Implementing the development of the repository; (ii) securing any needed vendors for its development and, if necessary, operation; and (iii) making the repository accessible to schools, school districts, and the public through appropriate electronic interfaces.

**NEW SECTION. Sec. 2.** A new section is added to chapter 42.56 RCW to read as follows:

Household income information received by the office of the superintendent of public instruction, school district employees, or designees of either in accordance with the electronic repository established under section 1 of this act is exempt from disclosure under this chapter.

Passed by the House February 10, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 23, 2022.

Filed in Office of Secretary of State March 23, 2022.

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## CHAPTER 112

[Second Substitute House Bill 2078]

### OUTDOOR LEARNING GRANT PROGRAM

AN ACT Relating to establishing the outdoor school for all program; amending RCW 28A.300.790; adding new sections to chapter 28A.300 RCW; 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 time outdoors helps children thrive physically, emotionally, and academically, yet over the past few generations, childhood has moved indoors. On average, today's kids spend up to 44 hours per week in front of a screen, and less than 10 minutes a day doing activities outdoors. For too many kids, access to the outdoors is determined by race, income, ability, and zip code. All children deserve equitable access to outdoor spaces where they can learn, play, and grow, but current access to outdoor educational opportunities is inequitable.

(2) From stress reduction to improved focus and engagement, and better academic performance, outdoor-based learning helps kids thrive. Research shows participants in outdoor educational activities have higher graduation rates, improved behavior in school and relationships with peers, higher academic achievement, critical thinking skills, direct experience of scientific concepts in the field, leadership and collaboration skills, and a deeper engagement with learning, place, and community. Outdoor educational programs also offer new opportunities for work-integrated learning in science, natural resources, education, land management, agriculture, outdoor recreation, and other employment sectors. Outdoor-based learning activities can also be a key element in the larger system of regular outdoor instructional time and outdoor experiences that includes STEM fields, after-school programs, summer camps,

4-H, scouting, and related programs which can spark a lifelong appreciation for the natural world.

(3) The legislature further finds that accessibility is a major obstacle to universal outdoor education. Most sites lack accommodation for children with disabilities and support staff for children who need social and emotional support. In addition, some youth may experience cultural barriers to outdoor learning experiences.

(4) Therefore, the legislature intends to establish a statewide grant program and corresponding outdoor education experiences program to address these needs and to ensure that all students have a chance to benefit from outdoor education.

**NEW SECTION. Sec. 2.** 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, or within funding made available, the outdoor learning grant program is established. The purpose of the grant program is to develop and support educational experiences for students in Washington public schools.

(2) The office of the superintendent of public instruction shall administer the grant program in accordance with this section.

(3) Within existing resources, the Washington state parks and recreation commission, the department of natural resources, the Washington department of fish and wildlife, the Washington department of agriculture, and the Washington conservation commission may partner with the office of the superintendent of public instruction to provide relevant expertise on land management and work-integrated learning experiences and opportunities.

(4) Beginning in the 2022-23 school year, the office of the superintendent of public instruction shall award grants to eligible school districts, federally recognized tribes, and outdoor education program providers. The office may consult with the Washington recreation and conservation office in awarding grants under this section.

(5)(a) The grant program must consist of two types of grants, including:

(i) Allocation-based grants for school districts to develop or support educational experiences; and

(ii) Competitive grants for federally recognized tribes and outdoor education providers to support existing capacity and to increase future capacity for outdoor learning experiences.

(b) In implementing student educational experiences under this section, school districts and outdoor education providers should ensure equitable access for students in all geographic regions, and high levels of accessibility for students with disabilities.

(6) Beginning in 2024, the office of the superintendent of public instruction, in accordance with RCW 43.01.036, must submit an annual report to the appropriate committees of the legislature with an evaluation of the program established by this section. The report may include information on other outdoor education and instructional time efforts and how they compare with programs funded through the outdoor learning grant program.

(7) For the purposes of this section, "school districts" includes state-tribal education compact schools established under chapter 28A.715 RCW.

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

(1) Subject to the availability of amounts appropriated for this specific purpose, the outdoor education experiences program is established as a program within the outdoor learning grant program established in section 2 of this act. The purpose of the outdoor education experiences program is to develop and support outdoor learning opportunities for 5th and 6th grade students in Washington public schools, with related opportunities for high school students to volunteer as counselors. The program will consist of hands-on learning experiences that: Are three to five days in duration and up to four nights; are overnight or day programs when overnight programs are impractical due to health, cultural, or capacity considerations; and have a focus on environmental education aligned with the Washington state learning standards and the development of social and emotional learning skills.

(2) The office of the superintendent of public instruction may work with a statewide nonprofit organization representing school principals to create guidelines for the program established by this section.

(3) In implementing the program established by this section, the priority focus of the office of the superintendent of public instruction 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, federally recognized tribes, including state-tribal education 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.

**Sec. 4.** RCW 28A.300.790 and 2018 c 266 s 410 are each amended to read as follows:

(1) The superintendent of public instruction, subject to conformity with application or other requirements adopted by rule, shall approve requests by public schools as provided in RCW 28A.320.173 to consider student participation in seasonal or nonseasonal outdoor-based activities, including programs established in accordance with section 2 of this act, and the outdoor education experiences program established in section 3 of this act, as instructional days for the purposes of basic education requirements established in RCW 28A.150.220(5).

(2) The superintendent of public instruction shall adopt rules to implement this section.

Passed by the House March 8, 2022.

Passed by the Senate March 4, 2022.

Approved by the Governor March 23, 2022.

Filed in Office of Secretary of State March 23, 2022.

## CHAPTER 113

[Substitute Senate Bill 5933]

## SCHOOL SEISMIC SAFETY GRANT PROGRAM

AN ACT Relating to establishing a school seismic safety grant program; adding a new section to chapter 28A.525 RCW; and creating new sections.

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

**NEW SECTION. Sec. 1.** The legislature finds that a significant number of Washington students in public school districts and state-tribal education compact schools attend school in older facilities located in geologically active areas. Accordingly, the legislature intends to create a grant program to help school districts and state-tribal education compact schools cover the cost of retrofitting or relocating school facilities located in high seismic areas or tsunami zones.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.525 RCW to read as follows:

(1) School seismic safety grants and school seismic planning grants must be awarded and determined in accordance with this section.

(2) **ELIGIBILITY.** A school district or state tribal education compact school is eligible to receive a school seismic safety grant for remediation of seismic or tsunami hazards in qualifying buildings that meet the following criteria:

(a) The building is located within a high seismic hazard area as defined in subsection (3) of this section; and

(b) The building was constructed before 1998 and has not received a seismic retrofit to 2005 seismic standards.

(3) **DEFINITIONS.** For the purposes of this section:

(a) "High seismic hazard area" means:

(i) Any location identified by the United States geological survey national seismic hazard map with a two percent probability of exceedance in 50 years and a national earthquake hazards reduction program site class D that are 0.3 peak horizontal acceleration or greater peak ground acceleration areas; or

(ii) Any area located within a Washington tsunami design zone map or, where a Washington tsunami design zone map is not available, an American society of civil engineers tsunami design zone map, that requires structures in risk category three or four to be designed for tsunamis.

(b) "Remediation" means solutions that mitigate or eliminate site specific seismic or tsunami hazards and may include building relocation or vertical evacuation towers if related to a tsunami hazard.

(c) "Total project cost" means direct and associated indirect costs for the remediation solution as approved by the advisory committee. Associated indirect costs can include site acquisition and development costs for approved building relocations. The combined direct and associated indirect costs cannot exceed the equivalent combined direct and associated indirect costs for building projects participating in the school construction assistance program for that same year.

(4) **ADVISORY COMMITTEE.** (a) The superintendent of public instruction must appoint an advisory committee to evaluate and prioritize grant applications from school districts and state-tribal education compact schools. Advisory committee members must have experience in financing, managing, or planning seismic remediation projects at school facilities but must not be involved in a school seismic safety grant request for the biennium under

consideration. The office of the superintendent of public instruction must provide administrative and staff support to the advisory committee and consult with the advisory committee to design a grant application process with specific criteria for prioritizing grant requests.

(b) The advisory committee must submit a prioritized list of grants to the superintendent of public instruction. The list must prioritize applications to achieve the greatest improvement of school facilities, in the school districts and state-tribal education compact schools with the most limited financial capacity, for projects that are likely to improve student health, safety, and academic performance for the largest number of students for the amount of state grant support.

(5) REQUIRED GRANT LIST. (a) The superintendent of public instruction must propose a list of prioritized school seismic safety grants to the governor by September 1st of each year, beginning September 1, 2022. This list must include:

- (i) A description of the proposed project;
- (ii) The proposed school seismic safety grant amount, equal to at least two-thirds of the estimated total project cost;
- (iii) The anticipated school construction assistance program amount;
- (iv) The anticipated local share of project cost; and
- (v) The estimated total project cost.

(b) The superintendent of public instruction and the governor may determine the level of funding in their omnibus capital appropriations act requests to support grants under this section, but their funding requests must follow the prioritized list prepared by the advisory committee unless new information determines that a specific project is no longer viable as proposed.

(6) SCHOOL CONSTRUCTION ASSISTANCE PROGRAM AND SMALL SCHOOL DISTRICT MODERNIZATION GRANT PROGRAM. (a) The full administrative and procedural process of school construction assistance program funding under RCW 28A.525.162 through 28A.525.180 and the small school district modernization grant program funding under RCW 28A.525.159 may be streamlined by the office of the superintendent of public instruction in order to coordinate eligible school construction assistance program funding and small school district modernization grant program funding with the school seismic safety grants. Such coordination must ensure that total state funding from all three grants does not exceed total project costs minus available local resources.

(b) Projects seeking school seismic safety grants must meet the requirements for a school construction assistance program grant except for the following: (i) The estimated cost of the project may be less than 40 percent of the estimated replacement value of the facility; and (ii) local funding assistance percentage requirements of the school construction assistance program do not apply. However, available school district and state-tribal education compact school resources are considered in prioritizing school seismic safety grants.

(7) DISBURSEMENT OF FUNDS. The superintendent of public instruction must award state and federal grants under this section to eligible school districts and state tribal education compact schools in an amount equal to at least two-thirds of the total project cost. The grant must not be awarded until the school district or state-tribal education compact school has identified available local and other resources sufficient to complete the approved project

considering the amount of the state grant. The grant must specify reporting requirements from the school district or state-tribal education compact school, which must include updating all pertinent information in the inventory and condition of schools data system and submitting a final project report as specified by the office of the superintendent of public instruction in consultation with the school facilities citizens advisory panel specified in RCW 28A.525.025.

(8) **PLANNING GRANTS.** Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction must assist eligible school districts and state-tribal education compact schools that are interested in applying for a school seismic safety grant under this section by providing technical assistance and planning grants. School districts and state-tribal education compact schools seeking planning grants under this section must provide a brief statement describing existing school conditions, building system and site deficiencies, current and five-year projected student headcount enrollment, student achievement measures, financial constraints, and any information required by the advisory committee established in subsection (4) of this section. If applications for planning grants exceed funds available, the office of the superintendent of public instruction may prioritize planning grant requests with primary consideration given to school district financial capacity and facility conditions.

**NEW SECTION. Sec. 3.** The school seismic safety grant program account is created in the state treasury. All receipts from direct appropriations from the legislature or moneys directed to the account from any other source must be deposited in the account. Moneys in the account may be spent only after appropriation. The account is intended to fund projects using tax exempt bonds. Expenditures from the account are for the school seismic safety grant program.

Passed by the Senate February 9, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 23, 2022.

Filed in Office of Secretary of State March 23, 2022.

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## CHAPTER 114

[Substitute House Bill 1876]

### BALLOT MEASURES—PUBLIC INVESTMENT IMPACT DISCLOSURES

AN ACT Relating to public investment impact disclosures for certain ballot measures that repeal, levy, or modify any tax or fee and have a fiscal impact statement that shows that adoption of the measure would cause a net change in state revenue; amending RCW 29A.72.050, 29A.72.290, and 29A.72.025; adding new sections to chapter 29A.72 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 the people have reserved for themselves the power to enact or reject legislation through the initiative and referendum process, as provided in Article II, section 1 of the state Constitution. The legislature finds that when exercising this right, the people are entitled to know the fiscal impact that their vote will have on public investments at the time they cast their ballots. The legislature further finds that when a ballot measure will affect funding for public investments, a neutral, nonprejudicial



disclosure of the public investments affected will provide greater transparency and necessary information for voters.

**NEW SECTION. Sec. 2.** A new section is added to chapter 29A.72 RCW to read as follows:

(1) The attorney general must prepare a public investment impact disclosure for any ballot measure that:

(a) Repeals, levies, or modifies any tax or fee, including changing the scope or application of an existing tax or fee; and

(b) Has a fiscal impact statement, as provided by RCW 29A.72.025, that shows that adoption of the measure would cause a net change in state revenue.

(2) The public investment impact disclosure must include a description of the investments that will be affected if the measure is adopted. The description must be sufficiently broad to reflect the subject of the investments that will be impacted by the change in revenue that will result from adoption of the measure, but also sufficiently precise to give notice of the subject matter of the investments that will be impacted by the change in revenue that will result from adoption of the measure. The description may not exceed 10 words, unless the fiscal impact is primarily to the state general fund, in which case the description must list the top three categories of state services funded by the general fund in the current state budget and may not exceed 15 words. The attorney general may consult with the office of financial management or any other state or local agencies as necessary to procure accurate information to draft the description.

(3) The format of the public investment impact disclosure, as it appears on the ballot, is:

"This measure would (increase or decrease) funding for (description of services)."

(4) In drafting the public investment impact disclosure, the attorney general must use neutral language that cannot reasonably be expected to create prejudice for or against the measure. The language of the disclosure is not subject to appeal, except as provided in this act.

(5) The attorney general must file the public investment impact disclosure with the secretary of state no later than July 23rd.

(6) The secretary of state must certify the public investment impact disclosure and timely transmit it to each county auditor for its inclusion on the ballot.

(7) Public investment impact disclosures are not considered part of the ballot title under this chapter and are not subject to any of the legal requirements for ballot titles.

**Sec. 3.** RCW 29A.72.050 and 2003 c 111 s 1806 are each amended to read as follows:

(1) The ballot title for an initiative to the people, an initiative to the legislature, a referendum bill, or a referendum measure consists of: (a) A statement of the subject of the measure; (b) a concise description of the measure; and (c) a question in the form prescribed in this section for the ballot measure in question. The statement of the subject of a measure must be sufficiently broad to reflect the subject of the measure, sufficiently precise to give notice of the measure's subject matter, and not exceed ten words. The concise description must contain no more than thirty words, be a true and impartial description of the

measure's essential contents, clearly identify the proposition to be voted on, and not, to the extent reasonably possible, create prejudice either for or against the measure.

(2) If a public investment impact disclosure is required under section 2 of this act, the disclosure must appear in the middle of the ballot title, after the concise description and before the question. The disclosure is not, however, considered part of the ballot title and is not subject to any of the legal requirements for ballot titles under this chapter.

(3) For an initiative to the people, or for an initiative to the legislature for which the legislature has not proposed an alternative, the ballot title and public investment impact disclosure, if applicable, must be displayed on the ballot substantially as follows:

"Initiative Measure No. . . . concerns (statement of subject). This measure would (concise description). (Public investment impact disclosure, if applicable). Should this measure be enacted into law?

- Yes . . . . .
- No . . . . .

~~((3))~~ (4) For an initiative to the legislature for which the legislature has proposed an alternative, the ballot title and public investment impact disclosure, if applicable, must be displayed on the ballot substantially as follows:

"Initiative Measure Nos. . . . and . . . B concern (statement of subject). Initiative Measure No. . . . would (concise description). (Public investment impact disclosure, if applicable).

As an alternative, the legislature has proposed Initiative Measure No. . . . B, which would (concise description). (Public investment impact disclosure, if applicable).

1. Should either of these measures be enacted into law?

- Yes . . . . .
- No . . . . .

2. Regardless of whether you voted yes or no above, if one of these measures is enacted, which one should it be?

- Measure No. . . . .
- or
- Measure No. . . . .

~~((4))~~ (5) For a referendum bill submitted to the people by the legislature, the ballot issue and public investment impact disclosure, if applicable, must be displayed on the ballot substantially as follows:

"The legislature has passed . . . . Bill No. . . . concerning (statement of subject). This bill would (concise description). (Public investment impact disclosure, if applicable). Should this bill be:

- Approved .....
- Rejected .....

~~((5))~~ (6) For a referendum measure by state voters on a bill the legislature has passed, the ballot issue and public investment impact disclosure, if applicable, must be displayed on the ballot substantially as follows:

"The legislature passed . . . Bill No. . . . concerning (statement of subject) and voters have filed a sufficient referendum petition on this bill. This bill would (concise description). (Public investment impact disclosure, if applicable). Should this bill be:

- Approved .....
- Rejected .....

~~((6))~~ (7) The legislature may specify the statement of subject or concise description, or both, in a referendum bill that it refers to the people. The legislature may specify the concise description for an alternative it submits for an initiative to the legislature. If the legislature fails to specify these matters, the attorney general shall prepare the material that was not specified. The statement of subject and concise description as so provided must be included as part of the ballot title unless changed on appeal.

The attorney general shall specify the statement of subject and concise description for an initiative to the people, an initiative to the legislature, and a referendum measure. The statement of subject and concise description as so provided must be included as part of the ballot title unless changed on appeal.

**Sec. 4.** RCW 29A.72.290 and 2013 c 11 s 76 are each amended to read as follows:

The county auditor of each county shall print on the official ballots for the election at which initiative and referendum measures and measures for an advisory vote of the people are to be submitted to the people for their approval or rejection, the serial numbers ~~((and))~~, ballot titles, and public investment impact disclosures certified by the secretary of state and the serial numbers and short descriptions of measures for an advisory vote of the people. They must appear under separate headings in the order of the serial numbers as follows:

- (1) Initiatives to the people;
- (2) Referendum measures;
- (3) Referendum bills;
- (4) Initiatives to the legislature;
- (5) Initiatives to the legislature and legislative alternatives;
- (6) Advisory votes;
- (7) Proposed constitutional amendments.

**Sec. 5.** RCW 29A.72.025 and 2009 c 415 s 7 are each amended to read as follows:

The office of financial management, in consultation with the secretary of state, the attorney general, and any other appropriate state or local agency, shall prepare a fiscal impact statement for each of the following state ballot measures: (1) An initiative to the people that is certified to the ballot; (2) an initiative to the legislature that will appear on the ballot; (3) an alternative measure appearing on

the ballot that the legislature proposes to an initiative to the legislature; (4) a referendum bill referred to voters by the legislature; and (5) a referendum measure appearing on the ballot. The secretary of state shall notify the office of financial management and the attorney general when the sponsor of a ballot measure has made an appointment to submit petitions to the secretary of state for filing. The office of financial management and appropriate state agencies may begin work on a fiscal impact statement prior to the submission of petitions. Fiscal impact statements must be written in clear and concise language, avoid legal and technical terms when possible, and be filed with the secretary of state no later than ~~((the tenth day of August))~~ July 23rd if a public investment impact disclosure is required under section 2 of this act, and no later than July 31st for all other measures. Fiscal impact statements may include easily understood graphics.

A fiscal impact statement must describe any projected increase or decrease in revenues, costs, expenditures, or indebtedness that the state or local governments will experience if the ballot measure were approved by state voters. Where appropriate, a fiscal impact statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context. A fiscal impact statement must include both a summary of not to exceed one hundred words and a more detailed statement that includes the assumptions that were made to develop the fiscal impacts.

Fiscal impact statements must be available online from the secretary of state's website and included in the state voters' pamphlet. Additional information may be posted on the website of the office of financial management.

**NEW SECTION. Sec. 6.** A new section is added to chapter 29A.72 RCW to read as follows:

Any persons, including either or both houses of the legislature, dissatisfied with the public investment impact disclosure for a state initiative or referendum may, within three days from the filing of the public investment impact disclosure in the office of the secretary of state, appeal to the superior court of Thurston county by petition setting forth the measure, the public investment impact disclosure, and their objections to the public investment impact disclosure and requesting amendment of the public investment impact disclosure by the court. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits contained in this section.

A copy of the petition on appeal together with a notice that an appeal has been taken shall be served upon the secretary of state, upon the attorney general, and upon the person proposing the measure if the appeal is initiated by someone other than that person. Upon the filing of the petition on appeal or at the time to which the hearing may be adjourned by consent of the appellant, the court shall accord first priority to examining the proposed measure, the public investment impact disclosure, and the objections to that public investment impact disclosure, may hear arguments, and shall, within five days, render its decision and file with the secretary of state a certified copy of such public investment impact disclosure as it determines will meet the requirements of section 2 of this act. The decision of the superior court shall be final. Such appeal shall be heard without costs to either party.

Passed by the House March 10, 2022.

Passed by the Senate March 10, 2022.

Approved by the Governor March 23, 2022.

Filed in Office of Secretary of State March 23, 2022.

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## CHAPTER 115

[Engrossed Substitute House Bill 1329]

### OPEN PUBLIC MEETINGS—VARIOUS PROVISIONS

AN ACT Relating to public meeting accessibility and participation; amending RCW 42.30.010, 42.30.030, 42.30.040, 42.30.050, 42.30.070, 42.30.077, 42.30.080, 42.30.090, 42.30.110, and 42.30.900; adding new sections to chapter 42.30 RCW; creating a new section; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** The legislature finds and declares that, due to technological advances since the 1971 adoption of the open public meetings act, elected officials no longer conduct the public's business solely at in-person meetings, but can and do utilize telephonic and other electronic methods to efficiently conduct the business of state and local government remotely. Further, limitations on public gatherings required as the result of a disaster or emergency, for example, to assist in preventing the spread of infectious diseases, may affirmatively necessitate the use of technology and the avoidance of in-person attendance at public meetings for the conduct of governmental business. It is the policy of the state that a governing body's actions, including deliberations, shall be taken and conducted in the open. When the public cannot observe and participate in person, it may limit participation in democracy. Therefore, this act shall be construed in favor of ensuring access by the public to observe elected officials when they meet pursuant to this act. It is the intent of this act to modernize and update the open public meetings act emergency procedures to reflect technological advances, while maintaining the act's public policy that governing body's actions and deliberations be taken and conducted openly while balancing public safety in emergency conditions. Governing bodies are encouraged to adopt resolutions or ordinances establishing where and how meetings will be held in the event of an emergency, in order to allow the public to more easily learn about and observe public agency action in an emergent situation.

The legislature further finds people participating in their government, especially through public comment, is an essential part of developing public policy. The legislature finds that there are numerous developing technologies that can be used to facilitate public comment, especially for those with disabilities, underserved communities, and those who face time or distance challenges when traveling to public meetings. Therefore, the legislature intends to encourage public agencies to make use of remote access tools as fully as practicable to encourage public engagement and better serve their communities.

**Sec. 2.** RCW 42.30.010 and 1971 ex.s. c 250 s 1 are each amended to read as follows:

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the

conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed and informing the people's public servants of their views so that they may retain control over the instruments they have created. For these reasons, even when not required by law, public agencies are encouraged to incorporate and accept public comment during their decision-making process.

**Sec. 3.** RCW 42.30.030 and 1971 ex.s. c 250 s 3 are each amended to read as follows:

(1) All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.

(2) Public agencies are encouraged to provide for the increased ability of the public to observe and participate in the meetings of governing bodies through real-time telephonic, electronic, internet, or other readily available means of remote access that do not require an additional cost to access the meeting.

**NEW SECTION. Sec. 4.** A new section is added to chapter 42.30 RCW to read as follows:

(1) Public agencies are encouraged to make an audio or video recording of, or to provide an online streaming option for, all regular meetings of its governing body, and to make recordings of these meetings available online for a minimum of six months.

(2) This section does not alter a local government's recordkeeping requirements under chapter 42.56 RCW.

**NEW SECTION. Sec. 5.** A new section is added to chapter 42.30 RCW to read as follows:

(1) If, after the declaration of an emergency by a local or state government or agency, or by the federal government, a public agency determines that it cannot hold a meeting of the governing body with members or public attendance in person with reasonable safety because of the emergency, the public agency may:

(a) Hold a remote meeting of the governing body without a physical location; or

(b) Hold a meeting of the governing body at which the physical attendance by some or all members of the public is limited due to a declared emergency.

(2) During a remote meeting, members of the governing body may appear or attend by phone or by other electronic means that allows real-time verbal communication without being in the same physical location. For a remote meeting or a meeting at which the physical attendance by some or all members of the public is limited due to a declared emergency, the public agency must provide an option for the public to listen to the proceedings telephonically or by using a readily available alternative in real-time that does not require any additional cost for participation. Free readily available options include, but are not limited to, broadcast by the public agency on a locally available cable television station that is available throughout the jurisdiction or other electronic,

internet, or other means of remote access that does not require any additional cost for access to the program. The public agency may also allow the other electronic means of remote access.

(3) No action may be taken at a remote meeting or a meeting at which the physical attendance by some or all members of the public is limited due to a declared emergency if the public agency has not provided an option for the public to listen to proceedings pursuant to subsection (2) of this section, except for an executive session as authorized in this chapter.

(4) Notice of a remote meeting without a physical location or a meeting at which the physical attendance by some or all members of the public is limited due to a declared emergency must be provided in accordance with this chapter and must include instructions on how the public may listen live to proceedings and on how the public may access any other electronic means of remote access offered by the public agency.

(5) A remote meeting or a meeting at which the physical attendance by some or all members of the public is limited due to a declared emergency that is held under the provisions of this section shall be considered open and public in compliance with the requirements of this chapter. Nothing in this section alters the ability of public agencies to take action in response to an emergency as provided for in RCW 42.30.070, or to have members of a governing body participate in a meeting remotely with no declared emergency.

(6) Notwithstanding any other provision in this section, any governing body of a public agency which held some of its regular meetings remotely prior to March 1, 2020, may continue to hold some of its regular meetings remotely with no declared emergency so long as the public agency provides an option for the public to listen to the proceedings pursuant to subsection (2) of this section.

**Sec. 6.** RCW 42.30.040 and 2012 c 117 s 124 are each amended to read as follows:

A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his or her name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. This section does not prohibit any generally applicable conditions determined by the governing body to be reasonably necessary to protect the public health or safety, or to protect against interruption of the meeting, including a meeting at which the physical attendance by some or all members of the public is limited due to a declared emergency.

**Sec. 7.** RCW 42.30.050 and 1971 ex.s. c 250 s 5 are each amended to read as follows:

In the event that any meeting is interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are interrupting the meeting, the members of the governing body conducting the meeting may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the governing body from

establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting. Nothing in this section prohibits the governing body from stopping people from speaking to the governing body when not recognized by the governing body to speak.

**Sec. 8.** RCW 42.30.070 and 1983 c 155 s 2 are each amended to read as follows:

The governing body of a public agency shall provide the time for holding regular meetings by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body. Unless otherwise provided for in the act under which the public agency was formed, meetings of the governing body need not be held within the boundaries of the territory over which the public agency exercises jurisdiction. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. If, by reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by a governing body to meet the emergency, the presiding officer of the governing body may provide for a meeting site other than the regular meeting site, for a remote meeting without a physical location, or for a meeting at which the physical attendance by some or all members of the public is limited due to a declared emergency, and the notice requirements of this chapter shall be suspended during such emergency. It shall not be a violation of the requirements of this chapter for a majority of the members of a governing body to travel together or gather for purposes other than a regular meeting or a special meeting as these terms are used in this chapter: PROVIDED, That they take no action as defined in this chapter.

**Sec. 9.** RCW 42.30.077 and 2014 c 61 s 2 are each amended to read as follows:

(1) Public agencies with governing bodies must make the agenda of each regular meeting of the governing body available online no later than ~~((twenty-four))~~ 24 hours in advance of the published start time of the meeting. An agency subject to provisions of this section ~~((is not required to post an agenda if it does not have a website or if it employs fewer than ten full-time equivalent employees))~~ may share a website with, or have its website hosted by, another public agency to post meeting agendas, minutes, budgets, contact information, and other records, including any resolution or ordinance adopted by the agency establishing where and how the public agency will meet in the event of an emergency. Nothing in this section prohibits subsequent modifications to agendas nor invalidates any otherwise legal action taken at a meeting where the agenda was not posted in accordance with this section. Nothing in this section modifies notice requirements or shall be construed as establishing that a public body or agency's online posting of an agenda as required by this section is sufficient notice to satisfy public notice requirements established under other laws. Failure to post an agenda in accordance with this section shall not provide a basis for awarding attorney fees under RCW 42.30.120 or commencing an action for mandamus or injunction under RCW 42.30.130.

(2) A special purpose district, city, or town subject to the provisions of this section is not required to post an agenda online if the district, city, or town:

(a) Has an aggregate valuation of the property subject to taxation by the district, city, or town of less than \$400,000,000, as placed on the last completed



and balanced tax rolls of the county preceding the date of the most recent tax levy;

(b) Has a population within its jurisdiction of under 3,000 persons; and

(c) Provides confirmation to the state auditor at the time it files its annual reports under RCW 43.09.230 that the cost of posting notices on a website of its own, a shared website, or on the website of the county in which the largest portion of the district's, city's, or town's population resides, would exceed one-tenth of one percent of the district's, city's, or town's budget.

**Sec. 10.** RCW 42.30.080 and 2012 c 188 s 1 are each amended to read as follows:

(1) A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering written notice personally, by mail, by fax, or by ~~((electronic mail))~~ email to each member of the governing body. Written notice shall be deemed waived in the following circumstances:

(a) A member submits a written waiver of notice with the clerk or secretary of the governing body at or prior to the time the meeting convenes. A written waiver may be given by telegram, fax, or ~~((electronic mail))~~ email; or

(b) A member is actually present at the time the meeting convenes.

(2) Notice of a special meeting called under subsection (1) of this section shall be:

(a) Delivered to each local newspaper of general circulation and local radio or television station that has on file with the governing body a written request to be notified of such special meeting or of all special meetings;

(b) Posted on the agency's website. An agency is not required to post a special meeting notice on its website if it ~~((+))~~ does not have a website~~((;-+))~~ or share a website with another agency. Except in the case of a remote meeting or a meeting at which the physical attendance by some or all members of the public is limited due to a declared emergency as provided for in this chapter, an agency is not required to post a special meeting notice on its website if it employs ~~((fewer than ten))~~ no full-time equivalent employees~~((;))~~, or ~~((+))~~ does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the website; and

(c) Prominently displayed at the main entrance of the agency's principal location and the meeting site if it is not held at the agency's principal location and is not held as a remote meeting; except that during a declared emergency which prevents a meeting from being held in-person with reasonable safety an agency that hosts a website or shares a website with another agency may instead post notice of a remote meeting without a physical location on the website hosted or shared by the agency.

Such notice must be delivered or posted, as applicable, at least ~~((twenty-four))~~ 24 hours before the time of such meeting as specified in the notice.

(3) The call and notices required under subsections (1) and (2) of this section shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body.

(4) The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time

requirements of such notice would make notice impractical and increase the likelihood of such injury or damage, or when the required notice cannot be posted or displayed with reasonable safety, including but not limited to declared emergencies in which travel to physically post notice is barred or advised against.

**Sec. 11.** RCW 42.30.090 and 2012 c 117 s 125 are each amended to read as follows:

The governing body of a public agency may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place. He or she shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.30.080 for special meetings, unless such notice is waived as provided for special meetings. ~~((Whenever))~~ Except in the case of remote meetings without a physical location as provided for in this chapter, whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

**Sec. 12.** RCW 42.30.110 and 2019 c 162 s 2 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a)(i) To consider matters affecting national security;

(ii) To consider, if in compliance with any required data security breach disclosure under RCW 19.255.010 and 42.56.590, and with legal counsel available, information regarding the infrastructure and security of computer and telecommunications networks, security and service recovery plans, security risk assessments and security test results to the extent that they identify specific system vulnerabilities, and other information that if made public may increase the risk to the confidentiality, integrity, or availability of agency security or to information technology infrastructure or assets;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion

would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(o) To consider information regarding staff privileges or quality improvement committees under RCW 70.41.205.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer. The announced purpose of excluding the public must be entered into the minutes of the meeting required by RCW 42.30.035.

**NEW SECTION. Sec. 13.** A new section is added to chapter 42.30 RCW to read as follows:

(1) Except in an emergency situation, the governing body of a public agency shall provide an opportunity at or before every regular meeting at which final action is taken for public comment. The public comment required under this section may be taken orally at a public meeting, or by providing an opportunity for written testimony to be submitted before or at the meeting. If the governing body accepts written testimony, this testimony must be distributed to the governing body. The governing body may set a reasonable deadline for the submission of written testimony before the meeting.

(2) Upon the request of any individual who will have difficulty attending a meeting of the governing body of a public agency by reason of disability, limited mobility, or for any other reason that makes physical attendance at a meeting difficult, the governing body shall, when feasible, provide an opportunity for that individual to provide oral comment at the meeting remotely if oral comment from other members of the public will be accepted at the meeting.

(3) Nothing in this section prevents a governing body from allowing public comment on items not on the meeting agenda.

(4) Nothing in this section diminishes the authority of governing bodies to deal with interruptions under RCW 42.30.050, limits the ability of the governing body to put limitations on the time available for public comment or on how public comment is accepted, or requires a governing body to accept public comment that renders orderly conduct of the meeting unfeasible.

**Sec. 14.** RCW 42.30.900 and 1971 ex.s. c 250 s 16 are each amended to read as follows:

This chapter may be known and cited as the (~~("Open Public Meetings Act of 1971")~~) Washington state open public meetings act or OPMA.

NEW SECTION. Sec. 15. Sections 5 through 11 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 March 7, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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**CHAPTER 116**

[Third Substitute House Bill 1359]

**LIQUOR LICENSE FEES—TEMPORARY REDUCTION**

AN ACT Relating to temporarily reducing liquor license fees; amending RCW 66.24.420, 66.24.590, 66.24.600, 66.24.655, 66.24.690, 66.24.140, 66.24.146, 66.24.170, 66.24.240, 66.24.244, 66.24.320, 66.24.330, 66.24.350, 66.24.540, 66.24.570, 66.24.580, and 66.24.650; reenacting and amending RCW 66.24.495 and 66.24.680; 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 finds that operations of businesses in the hospitality industry have been significantly disrupted since the beginning of the COVID-19 pandemic. Many of these businesses, including restaurants, hotels, theaters, caterers, and nightclubs maintain state liquor licenses in order to offer their customers beer, wine, or spirits as products or amenities as authorized under the terms of their licenses. However, many licensees' businesses were completely or partially closed for much of 2020 and continue to be closed or substantially disrupted in 2021 and 2022. Recognizing many licensees' inability to fully operate and use their license, and the financial hardships faced by many licensees, the legislature intends to provide relief to the hospitality industry by reducing certain liquor license fees in 2022 and 2023.

Sec. 2. RCW 66.24.420 and 2021 c 6 s 9 are each amended to read as follows:

(1) The spirits, beer, and wine restaurant license shall be issued in accordance with the following schedule of annual fees:

(a) The annual fee for a spirits, beer, and wine restaurant license shall be graduated according to the dedicated dining area and type of service provided as follows:

Less than 50% dedicated dining area	<del>(\$2,000)</del> <u>\$1,000</u>
50% or more dedicated dining area	<del>(\$1,600)</del> <u>\$800</u>
Service bar only	<del>(\$1,000)</del> <u>\$500</u>

(b) The annual fee for the license when issued to any other spirits, beer, and wine restaurant licensee outside of incorporated cities and towns shall be prorated according to the calendar quarters, or portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

(c) Where the license shall be issued to any corporation, association or person operating a bona fide restaurant in an airport terminal facility providing service to transient passengers with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a restaurant in an airport terminal facility must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and such food service shall be available on request in other licensed places on the premises. An additional license fee of twenty-five percent of the annual master license fee shall be required for such duplicate licenses.

(d) Where the license shall be issued to any corporation, association, or person operating dining places at a publicly or privately owned civic or convention center with facilities for sports, entertainment, or conventions, or a combination thereof, with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a dining place at such a publicly or privately owned civic or convention center must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and food service shall be available on request in other licensed places on the premises. An additional license fee of ten dollars shall be required for such duplicate licenses.

(e) The annual fees in this subsection (1) are waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(e); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(e).

(f) The waivers in (e) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(g) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (e) of this subsection for

the reasons described in (f) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) The board, so far as in its judgment is reasonably possible, shall confine spirits, beer, and wine restaurant licenses to the business districts of cities and towns and other communities, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

(3) The board shall have discretion to issue spirits, beer, and wine restaurant licenses outside of cities and towns in the state of Washington. The purpose of this subsection is to enable the board, in its discretion, to license in areas outside of cities and towns and other communities, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers, and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

(4) The combined total number of spirits, beer, and wine nightclub licenses, and spirits, beer, and wine restaurant licenses issued in the state of Washington by the board, not including spirits, beer, and wine private club licenses, shall not in the aggregate at any time exceed one license for each one thousand two hundred of population in the state, determined according to the yearly population determination developed by the office of financial management pursuant to RCW 43.62.030.

(5) Notwithstanding the provisions of subsection (4) of this section, the board shall refuse a spirits, beer, and wine restaurant license to any applicant if in the opinion of the board the spirits, beer, and wine restaurant licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(6)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove the liquor stocks at the licensed premises, for use as liquor for sale and service at event locations at a specified date and, except as provided in subsection (7) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with a catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(7) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

**Sec. 3.** RCW 66.24.590 and 2021 c 6 s 14 are each amended to read as follows:

(1) There is a retailer's license to be designated as a hotel license. No license may be issued to a hotel offering rooms to its guests on an hourly basis. Food service provided for room service, banquets or conferences, or restaurant operation under this license must meet the requirements of rules adopted by the board.

(2) The hotel license authorizes the licensee to:

(a) Sell spirituous liquor, beer, and wine, by the individual glass, at retail, for consumption on the premises, including mixed drinks and cocktails compounded and mixed on the premises;

(b) Sell, at retail, from locked honor bars, in individual units, spirits not to exceed fifty milliliters, beer in individual units not to exceed twelve ounces, and wine in individual bottles not to exceed three hundred eighty-five milliliters, to registered guests of the hotel for consumption in guest rooms. The licensee must require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest must also execute an affidavit verifying that no one under twenty-one years of age will have access to the spirits, beer, and wine in the honor bar;

(c) Provide without additional charge, to overnight guests, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited;

(d) Sell beer, including strong beer, wine, or spirits, in the manufacturer's sealed container or by the individual drink to guests through room service, or through service to occupants of private residential units which are part of the buildings or complex of buildings that include the hotel;

(e) Sell beer, including strong beer, spirits, or wine, in the manufacturer's sealed container at retail sales locations within the hotel premises;

(f) Sell beer to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap in the restaurant area by the licensee at the time of sale;



(g) Sell for on or off-premises consumption, including through room service and service to occupants of private residential units managed by the hotel, wine carrying a label exclusive to the hotel license holder;

(h) Place in guest rooms at check-in, a complimentary bottle of liquor in a manufacturer-sealed container, and make a reference to this service in promotional material.

(3) If all or any facilities for alcoholic beverage service and the preparation, cooking, and serving of food are operated under contract or joint venture agreement, the operator may hold a license separate from the license held by the operator of the hotel. Food and beverage inventory used in separate licensed operations at the hotel may not be shared and must be separately owned and stored by the separate licensees.

(4) All spirits to be sold under this license must be purchased from a spirits retailer or spirits distributor licensee of the board.

(5) All on-premises alcoholic beverage service must be done by an alcohol server as defined in RCW 66.20.300 and must comply with RCW 66.20.310.

(6)(a) The hotel license allows the licensee to remove from the liquor stocks at the licensed premises, liquor for sale and service at event locations at a specified date and place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived.

(b) The holder of this license must, if requested by the board, notify the board or its designee of the date, time, place, and location of any event. Upon request, the licensee must provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) Licensees may cater events on a domestic winery, brewery, or distillery premises.

(7) The holder of this license or its manager may furnish spirits, beer, or wine to the licensee's employees who are twenty-one years of age or older free of charge as may be required for use in connection with instruction on spirits, beer, and wine. The instruction may include the history, nature, values, and characteristics of spirits, beer, or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling spirits, beer, or wine. The licensee must use the liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the licensee.

(8) Minors may be allowed in all areas of the hotel where liquor may be consumed; however, the consumption must be incidental to the primary use of the area. These areas include, but are not limited to, tennis courts, hotel lobbies, and swimming pool areas. If an area is not a mixed use area, and is primarily used for alcohol service, the area must be designated and restricted to access by persons of lawful age to purchase liquor.

(9)(a) The annual fee for this license is (~~two thousand dollars~~) **\$1,000**.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (9)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (9)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(10) As used in this section, "hotel," "spirits," "beer," and "wine" have the meanings defined in RCW 66.24.410 and 66.04.010.

**Sec. 4.** RCW 66.24.600 and 2021 c 6 s 15 are each amended to read as follows:

(1) There shall be a spirits, beer, and wine nightclub license to sell spirituous liquor by the drink, beer, and wine at retail, for consumption on the licensed premises.

(2) The license may be issued only to a person whose business includes the sale and service of alcohol to the person's customers, has food sales and service incidental to the sale and service of alcohol, and has primary business hours between 9:00 p.m. and 2:00 a.m.

(3) Minors may be allowed on the licensed premises but only in areas where alcohol is not served or consumed.

(4)(a) The annual fee for this license is (~~two thousand dollars~~) \$1,000. The fee for the license shall be reviewed from time to time and set at such a level sufficient to defray the cost of licensing and enforcing this licensing program. The fee shall be fixed by rule adopted by the board in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (4)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (4)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where

business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(5) Local governments may petition the board to request that further restrictions be imposed on a spirits, beer, and wine nightclub license in the interest of public safety. Examples of further restrictions a local government may request are: No minors allowed on the entire premises, submitting a security plan, or signing a good neighbor agreement with the local government.

(6) The total number of spirits, beer, and wine nightclub licenses are subject to the requirements of RCW 66.24.420(4). However, the board shall refuse a spirits, beer, and wine nightclub license to any applicant if the board determines that the spirits, beer, and wine nightclub licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(7) The board may adopt rules to implement this section.

**Sec. 5.** RCW 66.24.655 and 2021 c 6 s 17 are each amended to read as follows:

(1)(a) There is a theater license to sell spirits, beer, including strong beer, or wine, or all, at retail, for consumption on theater premises. A spirits, beer, and wine theater license may be issued only to theaters that have no more than one hundred twenty seats per screen and that are maintained in a substantial manner as a place for preparing, cooking, and serving complete meals and providing tabletop accommodations for in-theater dining. Requirements for complete meals are the same as those adopted by the board in rules pursuant to chapter 34.05 RCW for a spirits, beer, and wine restaurant license authorized by RCW 66.24.400. The annual fee for a spirits, beer, and wine theater license is (~~two thousand dollars~~) \$1,000.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list

must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) If the theater premises is to be frequented by minors, an alcohol control plan must be submitted to the board at the time of application. The alcohol control plan must be approved by the board and be prominently posted on the premises, prior to minors being allowed.

(3) For the purposes of this section:

(a) "Alcohol control plan" means a written, dated, and signed plan submitted to the board by an applicant or licensee for the entire theater premises, or rooms or areas therein, that shows where and when alcohol is permitted, where and when minors are permitted, and the control measures used to ensure that minors are not able to obtain alcohol or be exposed to environments where drinking alcohol predominates.

(b) "Theater" means a place of business where motion pictures or other primarily nonparticipatory entertainment are shown.

(4) The board must adopt rules regarding alcohol control plans and necessary control measures to ensure that minors are not able to obtain alcohol or be exposed to areas where drinking alcohol predominates. All alcohol control plans must include a requirement that any person involved in the serving of spirits, beer, and/or wine must have completed a mandatory alcohol server training program.

(5)(a) A licensee that is an entity that is exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended as of January 1, 2013, may enter into arrangements with a spirits, beer, or wine manufacturer, importer, or distributor for brand advertising at the theater or promotion of events held at the theater. The financial arrangements providing for the brand advertising or promotion of events may not be used as an inducement to purchase the products of the manufacturer, importer, or distributor entering into the arrangement and such arrangements may not result in the exclusion of brands or products of other companies.

(b) The arrangements allowed under this subsection (5) are an exception to arrangements prohibited under RCW 66.28.305. The board must monitor the impacts of these arrangements. The board may conduct audits of a licensee and the affiliated business to determine compliance with this subsection (5). Audits may include, but are not limited to: Product selection at the facility; purchase patterns of the licensee; contracts with the spirits, beer, or wine manufacturer, importer, or distributor; and the amount allocated or used for spirits, beer, or wine advertising by the licensee, affiliated business, manufacturer, importer, or distributor under the arrangements.

(6) The maximum penalties prescribed by the board in WAC 314-29-020 relating to fines and suspensions are double for violations involving minors or the failure to follow the alcohol control plan with respect to theaters licensed under this section.

**Sec. 6.** RCW 66.24.690 and 2021 c 6 s 19 are each amended to read as follows:

(1) There shall be a caterer's license to sell spirits, beer, and wine, by the individual serving, at retail, for consumption on the premises at an event location that is either owned, leased, or operated either by the caterer or the sponsor of the event for which catering services are being provided. If the event is open to

the public, it must be sponsored by a society or organization as defined in RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined in RCW 66.24.375 is waived. The licensee must serve food as required by rules of the board.

(2)(a) The annual fee is two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license. The annual fee for a combined beer, wine, and spirits license is (~~one thousand dollars~~) \$500.

(b) The annual fees in (a) of this subsection are waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (2)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (2)(b).

(c) The waivers in (b) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(3) The holder of this license shall notify the board or its designee of the date, time, place, and location of any catered event at which liquor will be served, sold, or consumed. The board shall create rules detailing notification requirements. Upon request, the licensee shall provide to the board all necessary or requested information concerning the individual, society, or organization that will be holding the catered function at which the caterer's liquor license will be utilized.

(4) The holder of this license may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee.

(5) The holder of this license is prohibited from catering events at locations that are already licensed to sell liquor under this chapter.

(6) The holder of this license is responsible for all sales, service, and consumption of alcohol at the location of the catered event.

**Sec. 7.** RCW 66.24.140 and 2021 c 6 s 1 are each amended to read as follows:

(1) There is a license to distillers, including blending, rectifying, and bottling; fee (~~two thousand dollars~~) \$1,000 per annum, unless provided otherwise as follows:

(a) For distillers producing one hundred fifty thousand gallons or less of spirits with at least half of the raw materials used in the production grown in Washington, the license fee must be reduced to one hundred dollars per annum;

(b) The board must license stills used and to be used solely and only by a commercial chemist for laboratory purposes, and not for the manufacture of liquor for sale, at a fee of twenty dollars per annum;

(c) The board must license stills used and to be used solely and only for laboratory purposes in any school, college, or educational institution in the state, without fee;

(d) The board must license stills that have been duly licensed as fruit and/or wine distilleries by the federal government, used and to be used solely as fruit and/or wine distilleries in the production of fruit brandy and wine spirits, at a fee of two hundred dollars per annum;

(e) The annual fees in this subsection (1) are waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(e); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(e);

(f) The waivers in (e) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220; and

(g) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (e) of this subsection for the reasons described in (f) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) Any distillery licensed under this section may:

(a) Sell, for off-premises consumption, spirits of the distillery's own production, spirits produced by another distillery or craft distillery licensed in this state, or vermouth or sparkling wine products produced by a licensee in this state. A distillery selling spirits or other alcohol authorized under this subsection must comply with the applicable laws and rules relating to retailers for those products;

(b) Contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export; and

(c) Serve samples of spirits for free or for a charge, and sell servings of spirits, vermouth, and sparkling wine to customers for on-premises consumption, at the premises of the distillery indoors, outdoors, or in any combination thereof, and at the distillery's off-site tasting rooms in accordance with this chapter, subject to the following conditions:

(i) A distillery may provide to customers, for free or for a charge, for on-premises consumption, spirits samples that are one-half ounce or less per sample of spirits, and that may be adulterated with water, ice, other alcohol entitled to be served or sold on the licensed premises under this section, or nonalcoholic mixers;

(ii) A distillery may sell, for on-premises consumption, servings of spirits of the distillery's own production or spirits produced by another distillery or craft distillery licensed in this state, which must be adulterated with water, ice, other alcohol entitled to be sold or served on the licensed premises, or nonalcoholic mixers if the revenue derived from the sale of spirits for on-premises consumption under this subsection (2)(c)(ii) does not comprise more than thirty percent of the overall gross revenue earned in the tasting room during the calendar year. Any distiller who sells adulterated products under this subsection, must file an annual report with the board that summarizes the distiller's revenue sources; and

(iii) A distillery may sell, for on-premises consumption, servings of vermouth or sparkling wine products produced by a licensee in this state.

(3)(a) If a distillery provides or sells spirits or other alcohol products authorized to be sold or provided to customers for on-premises or off-premises consumption that are produced by another distillery, craft distillery, or licensee in this state, then at any one time no more than twenty-five percent of the alcohol stock-keeping units offered or sold by the distillery at its distillery premises and at any off-site tasting rooms licensed under RCW 66.24.146 may be vermouth, sparkling wine, or spirits made by another distillery, craft distillery, or licensee in this state. If a distillery sells fewer than twenty alcohol stock-keeping units of products of its own production, it may sell up to five alcohol stock-keeping units of vermouth, sparkling wine, or spirits produced by another distillery, craft distillery, or licensee in this state.

(b) A person is limited to receiving or purchasing, for on-premises consumption, no more than two ounces total of spirits that are unadulterated. Any additional spirits purchased for on-premises consumption must be adulterated as authorized in this section.

(c)(i) No person under twenty-one years of age may be on the premises of a distillery tasting room, including an off-site tasting room licensed under RCW 66.24.146, unless they are accompanied by their parent or legal guardian.

(ii) Every distillery tasting room, including the off-site tasting rooms licensed under RCW 66.24.146, where alcohol is sampled, sold, or served, must include a designated area where persons under twenty-one years of age are allowed to enter. Such location may be in a separate room or a designated area within the tasting room separated from the remainder of the tasting room space as authorized by the board.

(iii) Except for (c)(iv) of this subsection, or an event where a private party has secured a private banquet permit, no person under twenty-one years of age may be on the distillery premises, or the off-site tasting rooms licensed under RCW 66.24.146, past 9:00 p.m.

(iv) Notwithstanding the limitations of (c)(iii) of this subsection, persons under twenty-one years of age who are children of owners, operators, or managers of a distillery or an off-site tasting room licensed under RCW 66.24.146, may be in any area of a distillery, tasting room, or an off-site tasting

room licensed under RCW 66.24.146, provided they must be under the direct supervision of their parent or legal guardian while on the premises.

(d) Any person serving or selling spirits or other alcohol authorized to be served or sold by a distillery must obtain a class 12 alcohol server permit.

(e) A distillery may sell nonalcoholic products at retail.

**Sec. 8.** RCW 66.24.146 and 2021 c 6 s 2 are each amended to read as follows:

(1) There is a tasting room license available to distillery and craft distillery licensees. A tasting room license authorizes the operation of an off-site tasting room, in addition to a tasting room attached to the distillery's or craft distillery's production facility, at which the licensee may sample, serve, and sell spirits and alcohol products authorized to be sampled, served, and sold under RCW 66.24.140 and 66.24.145, for on-premises and off-premises consumption, subject to the same limitations as provided in RCW 66.24.140 and 66.24.145.

(2)(a) A distillery or craft distillery licensed production facility is eligible for no more than two off-site tasting room licenses located in this state, which may be indoors, or outdoors or a combination thereof, and which shall be administratively tied to a licensed production facility. A separate license is required for the operation of each off-site tasting room. The fee for each off-site tasting room license is (~~two thousand dollars~~) \$1,000 per annum. No additional license is required for a distillery or craft distillery to sample, serve, and sell spirits and alcohol to customers in a tasting room on the distillery or craft distillery premises as authorized under this section, RCW 66.24.147, 66.24.140, 66.24.145, 66.28.040, 66.24.630, and 66.28.310. Off-site tasting rooms may have a section identified and segregated as federally bonded spaces for the storage of bulk or packaged spirits. Product of the licensee's production may be bottled or packaged in the space.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (2)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (2)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.



**Sec. 9.** RCW 66.24.170 and 2021 c 6 s 3 are each amended to read as follows:

(1)(a) There is a license for domestic wineries; fee to be computed only on the liters manufactured: Less than two hundred fifty thousand liters per year, (~~one hundred dollars~~) \$50 per year; and two hundred fifty thousand liters or more per year, (~~four hundred dollars~~) \$200 per year.

(b) The annual fees in (a) of this subsection are waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waivers in (b) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) The license allows for the manufacture of wine in Washington state from grapes or other agricultural products.

(3) Any domestic winery licensed under this section may also act as a retailer of wine of its own production. Any domestic winery licensed under this section may act as a distributor of its own production. Notwithstanding any language in this title to the contrary, a domestic winery may use a common carrier to deliver up to one hundred cases of its own production, in the aggregate, per month to licensed Washington retailers. A domestic winery may not arrange for any such common carrier shipments to licensed retailers of wine not of its own production. Except as provided in this section, any winery operating as a distributor and/or retailer under this subsection must comply with the applicable laws and rules relating to distributors and/or retailers, except that a winery operating as a distributor may maintain a warehouse off the premises of the winery for the distribution of wine of its own production provided that: (a) The warehouse has been approved by the board under RCW 66.24.010; and (b) the number of warehouses off the premises of the winery does not exceed one.

(4)(a) A domestic winery licensed under this section, at locations separate from any of its production or manufacturing sites, may serve samples of its own products, with or without charge, may sell wine of its own production at retail, and may sell for off-premises consumption wines of its own production in kegs or sanitary containers meeting the applicable requirements of federal law brought to the premises by the purchaser or furnished by the licensee and filled at the tap at the time of sale, provided that: (i) Each additional location has been

approved by the board under RCW 66.24.010; (ii) the total number of additional locations does not exceed four; (iii) a winery may not act as a distributor at any such additional location; and (iv) any person selling or serving wine at an additional location for on-premises consumption must obtain a class 12 or class 13 alcohol server permit. Each additional location is deemed to be part of the winery license for the purpose of this title. At additional locations operated by multiple wineries under this section, if the board cannot connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee, the board may hold all licensees operating the additional location jointly liable. Nothing in this subsection may be construed to prevent a domestic winery from holding multiple domestic winery licenses.

(b) A customer of a domestic winery may remove from the premises of the domestic winery or from a tasting room location approved under (a) of this subsection, recorked or recapped in its original container, any portion of wine purchased for on-premises consumption.

(5)(a) A domestic winery licensed under this section may apply to the board for an endorsement to sell wine of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars. An endorsement issued pursuant to this subsection does not count toward the four additional retail locations limit specified in this section.

(b) For each month during which a domestic winery will sell wine at a qualifying farmers market, the winery must provide the board or its designee a list of the dates, times, and locations at which bottled wine may be offered for sale. This list must be received by the board before the winery may offer wine for sale at a qualifying farmers market.

(c) The wine sold at qualifying farmers markets must be made entirely from grapes grown in a recognized Washington appellation or from other agricultural products grown in this state.

(d) Each approved location in a qualifying farmers market is deemed to be part of the winery license for the purpose of this title. The approved locations under an endorsement granted under this subsection include tasting or sampling privileges subject to the conditions pursuant to RCW 66.24.175. The winery may not store wine at a farmers market beyond the hours that the winery offers bottled wine for sale. The winery may not act as a distributor from a farmers market location.

(e) Before a winery may sell bottled wine at a qualifying farmers market, the farmers market must apply to the board for authorization for any winery with an endorsement approved under this subsection to sell bottled wine at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved winery may sell bottled wine; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled wine may be sold. Before authorizing a qualifying farmers market to allow an approved winery to sell bottled wine at retail at its farmers market location, the board must notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (5)(e) may

be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers. However, if a farmers market does not satisfy this subsection (5)(g)(i)(B), a farmers market is still considered a "qualifying farmers market" if the total combined gross annual sales of farmers and processors at the farmers market is one million dollars or more;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(6) Wine produced in Washington state by a domestic winery licensee may be shipped out-of-state for the purpose of making it into sparkling wine and then returned to such licensee for resale. Such wine is deemed wine manufactured in the state of Washington for the purposes of RCW 66.24.206, and shall not require a special license.

(7) During an event held by a nonprofit holding a special occasion license issued under RCW 66.24.380, a domestic winery licensed under this section may take orders, either in writing or electronically, and accept payment for wines of its own production under the following conditions:

(a) Wine produced by the domestic winery may be served for on-premises consumption by the special occasion licensee;

(b) The domestic winery delivers wine to the consumer on a date after the conclusion of the special occasion event;

(c) The domestic winery delivers wine to the consumer at a location different from the location at which the special occasion event is held;

(d) The domestic winery complies with all requirements in chapter 66.20 RCW for direct sale of wine to consumers;

(e) The wine is not sold for resale; and

(f) The domestic winery is entitled to all proceeds from the sale and delivery of its wine to a consumer after the conclusion of the special occasion event, but may enter into an agreement to share a portion of the proceeds of these sales with the special occasion licensee licensed under RCW 66.24.380.

**Sec. 10.** RCW 66.24.240 and 2021 c 6 s 4 are each amended to read as follows:

(1)(a) There shall be a license for domestic breweries; fee to be ~~((two thousand dollars))~~ \$1,000 for production of sixty thousand barrels or more of malt liquor per year.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) Any domestic brewery, except for a brand owner of malt beverages under RCW 66.04.010(7), licensed under this section may also act as a distributor and/or retailer for beer of its own production. Any domestic brewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A domestic brewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) Any domestic brewery licensed under this section may also sell beer produced by another domestic brewery or a microbrewery for on and off-premises consumption from its premises as long as the other breweries' brands do not exceed twenty-five percent of the domestic brewery's on-tap offering of its own brands.

(4) A domestic brewery may hold up to four retail licenses to operate an on or off-premises tavern, beer and/or wine restaurant, spirits, beer, and wine restaurant, or any combination thereof. This retail license is separate from the brewery license. A brewery that holds a tavern license, a spirits, beer, and wine restaurant license, or a beer and/or wine restaurant license shall hold the same

privileges and endorsements as permitted under RCW 66.24.320, 66.24.330, and 66.24.420.

(5) Any domestic brewery licensed under this section may contract-produce beer for a brand owner of malt beverages defined under RCW 66.04.010(7), and this contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

(6)(a) A domestic brewery licensed under this section and qualified for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a domestic brewery will sell beer at a qualifying farmers market, the domestic brewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the domestic brewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the domestic brewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection do not include the tasting or sampling privilege of a domestic brewery. The domestic brewery may not store beer at a farmers market beyond the hours that the domestic brewery offers bottled beer for sale. The domestic brewery may not act as a distributor from a farmers market location.

(e) Before a domestic brewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any domestic brewery with an endorsement approved under this subsection to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved domestic brewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved domestic brewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (6)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(7) The state board of health shall adopt rules to allow dogs on the premises of licensed domestic breweries that do not provide food service subject to a food service permit requirement.

**Sec. 11.** RCW 66.24.244 and 2021 c 6 s 5 are each amended to read as follows:

(1)(a) There shall be a license for microbreweries; fee to be ~~((one hundred dollars))~~ \$50 for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2)(a) Any microbrewery licensed under this section may also act as a distributor and/or retailer for beer and strong beer of its own production.

(b) Any microbrewery operating as a distributor and/or retailer under this subsection must comply with the applicable laws and rules relating to

distributors and/or retailers, except that a microbrewery operating as a distributor may maintain a warehouse off the premises of the microbrewery for the distribution of beer provided that:

(i) The warehouse has been approved by the board under RCW 66.24.010; and

(ii) The number of warehouses off the premises of the microbrewery does not exceed one.

(c) A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) Any microbrewery licensed under this section may also sell from its premises for on-premises and off-premises consumption:

(a) Beer produced by another microbrewery or a domestic brewery as long as the other breweries' brands do not exceed twenty-five percent of the microbrewery's on-tap offerings; or

(b) Cider produced by a domestic winery.

(4) The board may issue up to four retail licenses allowing a microbrewery to operate an on or off-premises tavern, beer and/or wine restaurant, spirits, beer, and wine restaurant, or any combination thereof.

(5) A microbrewery that holds a tavern license, spirits, beer, and wine restaurant license, or a beer and/or wine restaurant license holds the same privileges and endorsements as permitted under RCW 66.24.320, 66.24.330, and 66.24.420.

(6)(a) A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars. However, strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) Any person selling or serving beer must obtain a class 12 or class 13 alcohol server permit.

(d) The beer sold at qualifying farmers markets must be produced in Washington.

(e) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection (6) include tasting or sampling privileges subject to the conditions pursuant to RCW 66.24.175. The microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(f) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any

microbrewery with an endorsement approved under this subsection (6) to sell bottled beer at retail at the farmers market. This application must include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board must notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (6)(f) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(g) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(h) For the purposes of this subsection (6):

(i) "Qualifying farmers market" has the same meaning as defined in RCW 66.24.170.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(7) Any microbrewery licensed under this section may contract-produce beer for another microbrewer. This contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

(8) The state board of health shall adopt rules to allow dogs on the premises of licensed microbreweries that do not provide food service subject to a food service permit requirement.

**Sec. 12.** RCW 66.24.320 and 2021 c 6 s 6 are each amended to read as follows:

There shall be a beer and/or wine restaurant license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. A patron of the licensee may remove from the premises, recorked or recapped in its original container, any portion of wine or sake that was purchased for consumption with a meal.

(1)(a) The annual fee shall be (~~two hundred dollars~~) \$100 for the beer license, (~~two hundred dollars~~) \$100 for the wine license, or (~~four hundred dollars~~) \$200 for a combination beer and wine license.

(b) The annual fees in (a) of this subsection are waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).



(c) The waivers in (b) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are authorized under the on-premises license privileges for sale and service at event locations at a specified date and, except as provided in subsection (3) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with a catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(3) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or the passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity

clauses regarding the alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

(4) The holder of this license or its manager may furnish beer or wine to the licensee's employees free of charge as may be required for use in connection with instruction on beer and wine. The instruction may include the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The beer and/or wine licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the beer and/or wine licensee.

(5) If the license is issued to a person who contracts with the Washington state ferry system to provide food and alcohol service on a designated ferry route, the license shall cover any vessel assigned to the designated route. A separate license is required for each designated ferry route.

**Sec. 13.** RCW 66.24.330 and 2021 c 6 s 7 are each amended to read as follows:

(1) There is a beer and wine retailer's license to be designated as a tavern license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. Such licenses may be issued only to a person operating a tavern that may be frequented only by persons twenty-one years of age and older.

(2)(a) The annual fee for the license is ~~((two hundred dollars))~~ \$100 for the beer license, ~~((two hundred dollars))~~ \$100 for the wine license, or ~~((four hundred dollars))~~ \$200 for a combination beer and wine license. Licensees who have a fee increase of more than one hundred dollars as a result of this change shall have their fees increased fifty percent of the amount the first renewal year and the remaining amount beginning with the second renewal period. New licensees obtaining a license after July 1, 1998, must pay the full amount of ~~((four hundred dollars))~~ \$200.

(b) The annual fees in (a) of this subsection are waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (2)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (2)(b).

(c) The waivers in (b) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for

the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(3)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are authorized under the on-premises license privileges for sale and service at event locations at a specified date and, except as provided in subsection (4) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with a catering endorsement must, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee must provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars is required for such duplicate licenses.

(4) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery and the retail licensee must be in writing, contain no exclusivity clauses regarding the alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery and the retail licensee may be separately contracted and compensated by the persons sponsoring the event for their respective services.

(5) The holder of this license or its manager may furnish beer or wine to the licensee's employees free of charge as may be required for use in connection with instruction on beer and wine. The instruction may include the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The tavern licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the tavern licensee.

(6) Any person serving liquor at a catered event on behalf of a licensee with a caterer's endorsement under this section must be an employee of the licensee and must possess a class 12 alcohol server permit as required under RCW 66.20.310.

(7) The board may issue rules as necessary to implement the requirements of this section.

**Sec. 14.** RCW 66.24.350 and 2021 c 6 s 8 are each amended to read as follows:

(1) There shall be a beer retailer's license to be designated as a snack bar license to sell beer by the opened bottle or can at retail, for consumption upon the premises only, such license to be issued to places where the sale of beer is not the principal business conducted; fee (~~(one hundred twenty five dollars)~~) \$62.50 per year.

(2)(a) The annual fee in subsection (1) of this section is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (2)(a); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (2)(a).

(b) The waiver in (a) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(c) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (a) of this subsection for the reasons described in (b) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

**Sec. 15.** RCW 66.24.495 and 2021 c 176 s 5234 and 2021 c 6 s 10 are each reenacted and amended to read as follows:

(1)(a) There shall be a license to be designated as a nonprofit arts organization license. This shall be a special license to be issued to any nonprofit arts organization which sponsors and presents productions or performances of an artistic or cultural nature in a specific theater or other appropriate designated indoor premises approved by the board. The license shall permit the licensee to sell liquor to patrons of productions or performances for consumption on the premises at these events. The fee for the license shall be (~~(two hundred fifty dollars)~~) \$125 per annum.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) For the purposes of this section, the term "nonprofit arts organization" means an organization which is organized and operated for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs, as defined in subsection (3) of this section, for viewing or attendance by the general public. The organization must be a not-for-profit corporation under chapter ((24.03)) 24.03A RCW and managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or by a corporation sole under chapter 24.12 RCW. In addition, the corporation must satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the license is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation;

(d) The corporation must be duly licensed or certified when licensing or certification is required by law or regulation;

(e) The proceeds derived from sales of liquor, except for reasonable operating costs, must be used in furtherance of the purposes of the organization;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The board shall have access to its books in order to determine whether the corporation is entitled to a license.

(3) The term "artistic or cultural exhibitions, presentations, or performances or cultural or art education programs" includes and is limited to:

(a) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(b) A musical or dramatic performance or series of performances; or

(c) An educational seminar or program, or series of such programs, offered by the organization to the general public on an artistic, cultural, or historical subject.

**Sec. 16.** RCW 66.24.540 and 2021 c 6 s 11 are each amended to read as follows:

(1) There is a retailer's license to be designated as a motel license. The motel license may be issued to a motel regardless of whether it holds any other class of license under this title. No license may be issued to a motel offering rooms to its guests on an hourly basis. The license authorizes the licensee to:

(a) Sell, at retail, in locked honor bars, spirits in individual bottles not to exceed fifty milliliters, beer in individual cans or bottles not to exceed twelve ounces, and wine in individual bottles not to exceed one hundred eighty-seven milliliters, to registered guests of the motel for consumption in guest rooms.

(i) Each honor bar must also contain snack foods. No more than one-half of the guest rooms may have honor bars.

(ii) All spirits to be sold under the license must be purchased from a spirits retailer or a spirits distributor licensee of the board.

(iii) The licensee must require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest must also execute an affidavit verifying that no one under twenty-one years of age has access to the spirits, beer, and wine in the honor bar.

(b) Provide without additional charge, to overnight guests of the motel, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited. All spirits, beer, and wine service must be done by an alcohol server as defined in RCW 66.20.300 and comply with RCW 66.20.310.

(2)(a) The annual fee for a motel license is (~~(five hundred dollars)~~) \$250.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (2)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (2)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(3) For the purposes of this section, "motel" means a transient accommodation licensed under chapter 70.62 RCW.

**Sec. 17.** RCW 66.24.570 and 2021 c 6 s 12 are each amended to read as follows:

(1)(a) There is a license for sports entertainment facilities to be designated as a sports entertainment facility license to sell beer, wine, and spirits at retail, for consumption upon the premises only, the license to be issued to the entity providing food and beverage service at a sports entertainment facility as defined in this section. The cost of the license is ~~((two thousand five hundred dollars))~~ \$1,250 per annum.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) For purposes of this section, a sports entertainment facility includes a publicly or privately owned arena, coliseum, stadium, or facility where sporting events are presented for a price of admission. The facility does not have to be exclusively used for sporting events.

(3) The board may impose reasonable requirements upon a licensee under this section, such as requirements for the availability of food and victuals including but not limited to hamburgers, sandwiches, salads, or other snack food. The board may also restrict the type of events at a sports entertainment facility at which beer, wine, and spirits may be served. When imposing conditions for a licensee, the board must consider the seating accommodations, eating facilities, and circulation patterns in such a facility, and other amenities available at a sports entertainment facility.

(4)(a) The board may issue a caterer's endorsement to the license under this section to allow the licensee to remove from the liquor stocks at the licensed premises, for use as liquor for sale and service at event locations at a specified date and place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the

sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(5) The board may issue an endorsement to the beer, wine, and spirits sports entertainment facility license that allows the holder of a beer, wine, and spirits sports entertainment facility license to sell for off-premises consumption wine vinted and bottled in the state of Washington and carrying a label exclusive to the license holder selling the wine. Spirits and beer may not be sold for off-premises consumption under this section. The annual fee for the endorsement under this section is one hundred twenty dollars.

(6)(a) A licensee and an affiliated business may enter into arrangements with a manufacturer, importer, or distributor for brand advertising at the sports entertainment facility or promotion of events held at the sports entertainment facility, with a capacity of five thousand people or more. The financial arrangements providing for the brand advertising or promotion of events shall not be used as an inducement to purchase the products of the manufacturer, importer, or distributor entering into the arrangement nor shall it result in the exclusion of brands or products of other companies.

(b) The arrangements allowed under this subsection (6) are an exception to arrangements prohibited under RCW 66.28.305. The board shall monitor the impacts of these arrangements. The board may conduct audits of the licensee and the affiliated business to determine compliance with this subsection (6). Audits may include but are not limited to product selection at the facility; purchase patterns of the licensee; contracts with the liquor manufacturer, importer, or distributor; and the amount allocated or used for liquor advertising by the licensee, affiliated business, manufacturer, importer, or distributor under the arrangements.

(c) The board shall report to the appropriate committees of the legislature by December 30, 2008, and biennially thereafter, on the impacts of arrangements allowed between sports entertainment licensees and liquor manufacturers, importers, and distributors for brand advertising and promotion of events at the facility.

**Sec. 18.** RCW 66.24.580 and 2021 c 6 s 13 are each amended to read as follows:

(1) A public house license allows the licensee:

(a) To annually manufacture no less than two hundred fifty gallons and no more than two thousand four hundred barrels of beer on the licensed premises;

(b) To sell product, that is produced on the licensed premises, at retail on the licensed premises for consumption on the licensed premises;

(c) To sell beer or wine not of its own manufacture for consumption on the licensed premises if the beer or wine has been purchased from a licensed beer or wine wholesaler;

(d) To apply for and, if qualified and upon the payment of the appropriate fee, be licensed as a spirits, beer, and wine restaurant to do business at the same



location. This fee is in addition to the fee charged for the basic public house license.

(2) RCW 66.28.305 applies to a public house license.

(3) A public house licensee must pay all applicable taxes on production as are required by law, and all appropriate taxes must be paid for any product sold at retail on the licensed premises.

(4) The employees of the licensee must comply with the provisions of mandatory server training in RCW 66.20.300 through 66.20.350.

(5) The holder of a public house license may not hold a wholesaler's or importer's license, act as the agent of another manufacturer, wholesaler, or importer, or hold a brewery or winery license.

(6)(a) The annual license fee for a public house is (~~one thousand dollars~~) \$500.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (6)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (6)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(7) The holder of a public house license may hold other licenses at other locations if the locations are approved by the board.

(8) Existing holders of annual retail liquor licenses may apply for and, if qualified, be granted a public house license at one or more of their existing liquor licensed locations without discontinuing business during the application or construction stages.

**Sec. 19.** RCW 66.24.650 and 2021 c 6 s 16 are each amended to read as follows:

(1)(a) There is a theater license to sell beer, including strong beer, or wine, or both, at retail, for consumption on theater premises. The annual fee is (~~four hundred dollars~~) \$200 for a beer and wine theater license.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) If the theater premises is to be frequented by minors, an alcohol control plan must be submitted to the board at the time of application. The alcohol control plan must be approved by the board, and be prominently posted on the premises, prior to minors being allowed.

(3) For the purposes of this section:

(a) "Alcohol control plan" means a written, dated, and signed plan submitted to the board by an applicant or licensee for the entire theater premises, or rooms or areas therein, that shows where and when alcohol is permitted, where and when minors are permitted, and the control measures used to ensure that minors are not able to obtain alcohol or be exposed to environments where drinking alcohol predominates.

(b) "Theater" means a place of business where motion pictures or other primarily nonparticipatory entertainment are shown, and includes only theaters with up to four screens.

(4) The board must adopt rules regarding alcohol control plans and necessary control measures to ensure that minors are not able to obtain alcohol or be exposed to areas where drinking alcohol predominates. All alcohol control plans must include a requirement that any person involved in the serving of beer and/or wine must have completed a mandatory alcohol server training program.

(5)(a) A licensee that is an entity that is exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended as of January 1, 2013, may enter into arrangements with a beer or wine manufacturer, importer, or distributor for brand advertising at the theater or promotion of events held at the theater. The financial arrangements providing for the brand advertising or promotion of events may not be used as an inducement to purchase the products of the manufacturer, importer, or distributor entering into the arrangement and such arrangements may not result in the exclusion of brands or products of other companies.

(b) The arrangements allowed under this subsection (5) are an exception to arrangements prohibited under RCW 66.28.305. The board must monitor the impacts of these arrangements. The board may conduct audits of a licensee and the affiliated business to determine compliance with this subsection (5). Audits may include, but are not limited to: Product selection at the facility; purchase

patterns of the licensee; contracts with the beer or wine manufacturer, importer, or distributor; and the amount allocated or used for wine or beer advertising by the licensee, affiliated business, manufacturer, importer, or distributor under the arrangements.

(6) The maximum penalties prescribed by the board in WAC 314-29-020 relating to fines and suspensions are double for violations involving minors or the failure to follow the alcohol control plan with respect to theaters licensed under this section.

**Sec. 20.** RCW 66.24.680 and 2021 c 176 s 5235 and 2021 c 6 s 18 are each reenacted and amended to read as follows:

(1) There shall be a license to be designated as a senior center license. This shall be a license issued to a nonprofit organization whose primary service is providing recreational and social activities for seniors on the licensed premises. This license shall permit the licensee to sell spirits by the individual glass, including mixed drinks and cocktails mixed on the premises only, beer and wine, at retail for consumption on the premises.

(2) To qualify for this license, the applicant entity must:

- (a) Be a nonprofit organization under chapter 24.03A RCW;
- (b) Be open at times and durations established by the board; and
- (c) Provide limited food service as defined by the board.

(3) All alcohol servers must have a valid mandatory alcohol server training permit.

(4) The board shall adopt rules to implement this section.

(5)(a) The annual fee for this license shall be ~~((seven hundred twenty dollars))~~ \$360.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after February 28, 2021, for:

(i) Licenses that expire during the 12-month waiver period under this subsection (5)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (5)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

NEW SECTION. **Sec. 21.** Sections 2 through 20 of this act expire December 31, 2023.

NEW SECTION. **Sec. 22.** 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, 2022.

Passed by the House March 10, 2022.

Passed by the Senate March 10, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

**CHAPTER 117**

[Engrossed Substitute House Bill 1530]

WASHINGTON WINE SPECIAL LICENSE PLATES

AN ACT Relating to creating Washington wine special license plates; reenacting and amending RCW 46.17.220, 46.18.200, and 46.68.420; adding a new section to chapter 46.04 RCW; and providing an effective date.

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

**Sec. 1.** RCW 46.17.220 and 2020 c 129 s 1 and 2020 c 93 s 2 are each reenacted and amended to read as follows:

In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16A RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

PLATE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(1) 4-H	\$ 40.00	\$ 30.00	RCW 46.68.420
(2) Amateur radio license	\$ 5.00	N/A	RCW 46.68.070
(3) Armed forces	\$ 40.00	\$ 30.00	RCW 46.68.425
(4) Breast cancer awareness	\$ 40.00	\$ 30.00	RCW 46.68.425
(5) Collector vehicle	\$ 35.00	N/A	RCW 46.68.030
(6) Collegiate	\$ 40.00	\$ 30.00	RCW 46.68.430
(7) Endangered wildlife	\$ 40.00	\$ 30.00	RCW 46.68.425
(8) Fred Hutch	\$ 40.00	\$ 30.00	RCW 46.68.420
(9) Gonzaga University alumni association	\$ 40.00	\$ 30.00	RCW 46.68.420
(10) Helping kids speak	\$ 40.00	\$ 30.00	RCW 46.68.420
(11) Horseless carriage	\$ 35.00	N/A	RCW 46.68.030
(12) Keep kids safe	\$ 45.00	\$ 30.00	RCW 46.68.425
(13) Law enforcement memorial	\$ 40.00	\$ 30.00	RCW 46.68.420
(14) Military affiliate radio system	\$ 5.00	N/A	RCW 46.68.070
(15) Music matters	\$ 40.00	\$ 30.00	RCW 46.68.420
(16) Professional firefighters and paramedics	\$ 40.00	\$ 30.00	RCW 46.68.420
(17) Purple Heart	\$ 40.00	\$ 30.00	RCW 46.68.425
(18) Ride share	\$ 25.00	N/A	RCW 46.68.030
(19) San Juan Islands	\$ 40.00	\$ 30.00	RCW 46.68.420

PLATE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(20) Seattle Mariners	\$ 40.00	\$ 30.00	RCW 46.68.420
(21) Seattle NHL hockey	\$ 40.00	\$ 30.00	RCW 46.68.420
(22) Seattle Seahawks	\$ 40.00	\$ 30.00	RCW 46.68.420
(23) Seattle Sounders FC	\$ 40.00	\$ 30.00	RCW 46.68.420
(24) Seattle Storm	\$ 40.00	\$ 30.00	RCW 46.68.420
(25) Seattle University	\$ 40.00	\$ 30.00	RCW 46.68.420
(26) Share the road	\$ 40.00	\$ 30.00	RCW 46.68.420
(27) Ski & ride Washington	\$ 40.00	\$ 30.00	RCW 46.68.420
(28) Square dancer	\$ 40.00	N/A	RCW 46.68.070
(29) State flower	\$ 40.00	\$ 30.00	RCW 46.68.420
(30) Volunteer firefighters	\$ 40.00	\$ 30.00	RCW 46.68.420
(31) Washington apples	\$ 40.00	\$ 30.00	RCW 46.68.420
(32) Washington farmers and ranchers	\$ 40.00	\$ 30.00	RCW 46.68.420
(33) Washington lighthouses	\$ 40.00	\$ 30.00	RCW 46.68.420
(34) Washington state aviation	\$ 40.00	\$ 30.00	RCW 46.68.420
(35) Washington state parks	\$ 40.00	\$ 30.00	RCW 46.68.425
(36) Washington state wrestling	\$ 40.00	\$ 30.00	RCW 46.68.420
(37) Washington tennis	\$ 40.00	\$ 30.00	RCW 46.68.420
(38) <u>Washington wine</u>	<u>\$ 40.00</u>	<u>\$ 30.00</u>	<u>RCW 46.68.420</u>
<u>(39)</u> Washington's fish collection	\$ 40.00	\$ 30.00	RCW 46.68.425
<del>((39))</del> <u>(40)</u> Washington's national parks	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((40))</del> <u>(41)</u> Washington's wildlife collection	\$ 40.00	\$ 30.00	RCW 46.68.425
<del>((41))</del> <u>(42)</u> We love our pets	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((42))</del> <u>(43)</u> Wild on Washington	\$ 40.00	\$ 30.00	RCW 46.68.425

**Sec. 2.** RCW 46.18.200 and 2020 c 129 s 2 and 2020 c 93 s 1 are each reenacted and amended to read as follows:

(1) Special license plate series reviewed and approved by the department:

(a) May be issued in lieu of standard issue or personalized license plates for vehicles required to display one and two license plates unless otherwise specified;

(b) Must be issued under terms and conditions established by the department;

(c) Must not be issued for vehicles registered under chapter 46.87 RCW; and

(d) Must display a symbol or artwork approved by the department.

(2) The department approves and shall issue the following special license plates, subject to subsection (5) of this section:

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
4-H	Displays the "4-H" logo.
Armed forces collection	Recognizes the contribution of veterans, active duty military personnel, reservists, and members of the national guard, and includes six separate designs, each containing a symbol representing a different branch of the armed forces to include army, navy, air force, marine corps, coast guard, and national guard.
Breast cancer awareness	Displays a pink ribbon symbolizing breast cancer awareness.
Endangered wildlife	Displays a symbol or artwork symbolizing endangered wildlife in Washington state.
Fred Hutch	Displays the Fred Hutch logo.
Gonzaga University alumni association	Recognizes the Gonzaga University alumni association.
Helping kids speak	Recognizes an organization that supports programs that provide no-cost speech pathology programs to children.
Keep kids safe	Recognizes efforts to prevent child abuse and neglect.
Law enforcement memorial	Honors law enforcement officers in Washington killed in the line of duty.
Music matters	Displays the "Music Matters" logo.
Professional firefighters and paramedics	Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.
San Juan Islands	Displays a symbol or artwork recognizing the San Juan Islands.
Seattle Mariners	Displays the "Seattle Mariners" logo.
Seattle NHL hockey	Displays the logo of the Seattle NHL hockey team.
Seattle Seahawks	Displays the "Seattle Seahawks" logo.
Seattle Sounders FC	Displays the "Seattle Sounders FC" logo.
Seattle Storm	Displays the "Seattle Storm" logo.
Seattle University	Recognizes Seattle University.

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
Share the road	Recognizes an organization that promotes bicycle safety and awareness education.
Ski & ride Washington	Recognizes the Washington snowsports industry.
State flower	Recognizes the Washington state flower.
Volunteer firefighters	Recognizes volunteer firefighters.
Washington apples	Displays the Washington apple logo that recognizes the state's apple industry, the growers and shippers who produce and pack the world famous apples, and the tree fruit community.
Washington farmers and ranchers	Recognizes farmers and ranchers in Washington state.
Washington lighthouses	Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.
Washington state aviation	Displays a Stearman biplane in the foreground with an image of Mount Rainier in the background.
Washington state parks	Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.
Washington state wrestling	Promotes and supports college wrestling in the state of Washington.
Washington tennis	Builds awareness and year-round opportunities for tennis in Washington state. Displays a symbol or artwork recognizing tennis in Washington state.
<u>Washington wine</u>	<u>Displays a landscape of Washington's wine regions.</u>
Washington's fish collection	Recognizes Washington's fish.
Washington's national park fund	Builds awareness of Washington's national parks and supports priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
<p>Washington's wildlife collection</p> <p>We love our pets</p>	<p>Recognizes Washington's wildlife.</p> <p>Recognizes an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets to reduce pet overpopulation.</p>
<p>Wild on Washington</p>	<p>Symbolizes wildlife viewing in Washington state.</p>

(3) Applicants for initial and renewal professional firefighters and paramedics special license plates must show proof of eligibility by providing a certificate of current membership from the Washington state council of firefighters.

(4) Applicants for initial volunteer firefighters special license plates must (a) have been a volunteer firefighter for at least ten years or be a volunteer firefighter for one or more years and (b) have documentation of service from the district of the appropriate fire service. If the volunteer firefighter leaves firefighting service before ten years of service have been completed, the volunteer firefighter shall surrender the license plates to the department on the registration renewal date. If the volunteer firefighter stays in service for at least ten years and then leaves, the license plate may be retained by the former volunteer firefighter and as long as the license plate is retained for use the person will continue to pay the future registration renewals. A qualifying volunteer firefighter may have no more than one set of license plates per vehicle, and a maximum of two sets per applicant, for their personal vehicles. If the volunteer firefighter is convicted of a violation of RCW 46.61.502 or a felony, the license plates must be surrendered upon conviction.

(5) The department shall not issue the Seattle NHL hockey special license plate until the department receives signature sheets satisfying the requirements identified in RCW 46.18.110(2)(f).

**Sec. 3.** RCW 46.68.420 and 2020 c 129 s 3 and 2020 c 93 s 3 are each reenacted and amended to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under RCW 46.17.220;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle fund until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fee amounts for each special license plate to the following appropriate account as created in this section in the custody of the state treasurer:



ACCOUNT	CONDITIONS FOR USE OF FUNDS
4-H programs Fred Hutch	Support Washington 4-H programs Support cancer research at the Fred Hutchinson cancer research center
Gonzaga University alumni association	Scholarship funds to needy and qualified students attending or planning to attend Gonzaga University
Helping kids speak	Provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development
Law enforcement memorial	Provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers
Lighthouse environmental programs	Support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; provide environmental education programs; provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration; encourage and support interpretive programs by lighthouse docents
Music matters awareness	Promote music education in schools throughout Washington
San Juan Islands programs	Provide funds to the Madrona institute
Seattle Mariners	Provide funds to the sports mentoring program and to support the Washington world fellows program in the following manner: (a) Seventy-five percent to the office of the lieutenant governor solely to administer the sports mentoring program established under RCW 43.15.100, to encourage youth who have economic needs or face adversities to experience spectator sports or get involved in youth sports, and (b) up to twenty-five percent to the office of the lieutenant governor solely to administer the Washington world fellows program, an equity focused program

ACCOUNT	CONDITIONS FOR USE OF FUNDS
Seattle NHL hockey	Provide funds to the NHL Seattle foundation and to support the boundless Washington program in the following manner: (a) Fifty percent to the NHL Seattle foundation, or its successor organization, to help marginalized youth succeed in life through increased access to sports and other opportunities; (b) twenty-five percent to the office of the lieutenant governor solely to administer the boundless Washington program to facilitate opportunities for young people with physical and sensory disabilities to enjoy and experience the outdoors; and (c) twenty-five percent to the NHL Seattle foundation, or its successor organization, for providing financial support to allow youth to participate in hockey
Seattle Seahawks	Provide funds to InvestED and to support the Washington world fellows program in the following manner: (a) Seventy-five percent, to InvestED, to encourage secondary students who have economic needs to stay in school, return to school, or get involved within their learning community; and (b) twenty-five percent to the office of the lieutenant governor solely to administer the Washington world fellows program, including the provision of fellowships

ACCOUNT	CONDITIONS FOR USE OF FUNDS
Seattle Sounders FC	<p>Provide funds to Washington state mentors and the <del>((association of))</del> Washington <del>((generals))</del> <u>state leadership board</u> created in RCW 43.15.030 in the following manner:</p> <p>(a) Seventy percent and the remaining proceeds, if any, to Washington state mentors, to increase the number of mentors in the state by offering mentoring grants throughout Washington state that foster positive youth development and academic success, with up to twenty percent of these proceeds authorized for program administration costs; and (b) up to thirty percent, not to exceed forty-thousand dollars annually as adjusted for inflation by the office of financial management, to the association of Washington generals, to develop Washington state educational, veterans, international relations, and civics projects and to recognize the outstanding public service of individuals or groups in the state of Washington</p>
Seattle Storm	<p>Provide funds to the Washington state legislative youth advisory council and the <del>((association of))</del> Washington <del>((generals))</del> <u>state leadership board</u> created in RCW 43.15.030 in the following manner: Twenty-five thousand dollars per year of the net proceeds to the legislative youth advisory council, or its successor organization; and the remaining net proceeds on an annual basis, to the association of Washington generals for the purpose of providing grants to support and enhance athletic, recreational, and other opportunities for women and girls, and especially those with disabilities</p>
Seattle University	<p>Fund scholarships for students attending or planning to attend Seattle University</p>
Share the road	<p>Promote bicycle safety and awareness education in communities throughout Washington</p>

ACCOUNT	CONDITIONS FOR USE OF FUNDS
Ski & ride Washington	Promote winter snowsports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs, underprivileged youth ski and ride programs, and active, healthy lifestyle programs
State flower	Support Meerkerk Rhododendron Gardens and provide for grants to other qualified nonprofit organizations' efforts to preserve rhododendrons
Volunteer firefighters	Receive and disseminate funds for purposes on behalf of volunteer firefighters, their families, and others deemed in need
Washington apples	Provide scholarship funding to the tree fruit industry's official charity, the Washington apple education foundation, which provides financial support, professional employment preparedness training, and mentorship to students with ties to the apple industry pursuing a higher education
Washington farmers and ranchers	Provide funds to the Washington FFA Foundation for educational programs in Washington state
Washington state aviation	Provide funds to the department of transportation to support infrastructure improvements at public use airports in Washington state
Washington state council of firefighters benevolent fund	Receive and disseminate funds for charitable purposes on behalf of members of the Washington state council of firefighters, their families, and others deemed in need
Washington state wrestling	Provide funds to the Washington state wrestling foundation to fund new and existing college wrestling programs

ACCOUNT	CONDITIONS FOR USE OF FUNDS
Washington tennis	Provide funds to cities to assist in the construction and maintenance of a public tennis facility with at least four indoor tennis courts. A city is eligible for construction funds if the city does not already have a public or private facility with at least four indoor tennis courts. Funds for construction must first be made available to the most populous eligible city, according to the most recent census, for a time period not to exceed five years after January 1, 2017. After the five-year time period, the funds for construction must be made available to the next most populous eligible city. Funds for the maintenance of a public tennis facility with at least four indoor tennis courts must first be made available to the first eligible city that utilizes funds for construction provided by chapter 16, Laws of 2016
<u>Washington wine</u>	<u>Provide funds to the state of Washington tourism to promote tourism throughout Washington state</u>
Washington's national park fund	Build awareness of Washington's national parks and support priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks
We love our pets	Support and enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets in order to reduce pet population

(3) Except as otherwise provided in this section, only the director or the director's designee may authorize expenditures from the accounts described in subsection (2) of this section. The accounts are subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) Except as otherwise provided in this section, funds in the special license plate accounts described in subsection (2) of this section must be disbursed subject to the conditions described in subsection (2) of this section and under

contract between the department and qualified nonprofit organizations that provide the services described in subsection (2) of this section.

(5) Funds from the Seattle Seahawks account may be provided to the lieutenant governor solely for the purpose of administering the Washington world fellows program. Of the amounts received by the lieutenant governor's office under this subsection, at least ninety percent must be provided as fellowships under the program.

(6) Beginning January 1, 2019, funds from the Seattle Mariners account may be provided to the office of lieutenant governor solely for the purpose of administering the sports mentoring program. Of the amounts received by the office of lieutenant governor, at least ninety percent must be applied towards services directly provided to youth participants.

(7) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under 26 U.S.C. Sec. 501(c)(3). The qualified nonprofit organization must meet all the requirements under RCW 46.18.100(1).

NEW SECTION. Sec. 4. A new section is added to chapter 46.04 RCW to read as follows:

"Washington wine license plates" means special license plates issued under RCW 46.18.200 that display a landscape of Washington's wine regions.

NEW SECTION. Sec. 5. This act takes effect November 1, 2022.

Passed by the House February 26, 2022.

Passed by the Senate March 9, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 118

[House Bill 1622]

### SEXUAL ASSAULT NURSE EXAMINERS—EDUCATION PROGRAMS

AN ACT Relating to increasing the availability of sexual assault nurse examiner education in rural and underserved areas; adding new sections to chapter 28B.30 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. The legislature finds that:

(1) Most organizations recognize that the didactic training of health care professionals performing the medical forensic examination should consist of at least 40 hours;

(2) Training of sexual assault nurse examiners should include hands-on clinical skills training and competency checks;

(3) Disparities persist between the training that is available to nurses in rural communities, including a lack of hands-on clinical skills training and a lack of 40-hour didactic classes;

(4) Best practice for the clinical education of nurses includes the use of simulation in an interdisciplinary context;

(5) Promotion of equal access to 40-hour didactic classes and supporting the development of clinical training mechanisms will help to ensure consistency and quality of care throughout the state; and

(6) Washington State University has the capacity to offer high quality, simulation-based, inter-professional training for sexual assault nurse examiners and to increase access to education for nurses in rural communities.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28B.30 RCW to read as follows:

(1) The Washington State University college of nursing shall establish a program to increase the availability of qualified sexual assault nurse examiners in eastern Washington. The program must, at a minimum, include the following elements:

(a) Online training resources to provide nurses in rural and underserved communities access to at least 40 hours of didactic training;

(b) A clinical training site at the Washington State University school of nursing at which nurses may complete the clinical training requirements established by the United States department of justice; and

(c) Scholarships for nurses to complete the online training, the clinical training, or both.

(2) The Washington State University college of nursing shall submit annual reports to the appropriate committees of the legislature in accordance with RCW 43.01.036 on the use and impact of the online and clinical training established in this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28B.30 RCW to read as follows:

(1) The Washington State University college of nursing shall establish a regional sexual assault nurse examiner leader pilot program. Regional lead sexual assault nurse examiners participating in the program shall:

(a) Establish the number of active sexual assault nurse examiners in their communities;

(b) Report on the educational needs of their communities;

(c) Produce recommendations on how to best increase the number of sexual assault nurse examiners in their communities; and

(d) Develop community-based action plans for sexual assault nurse examiner recruitment.

(2) The Washington State University college of nursing shall:

(a) Develop and train lead sexual assault nurse examiners; and

(b) Assist in the development of support mechanisms and role requirements for regional lead sexual assault nurse examiners.

(3) The Washington State University college of nursing shall submit to the appropriate committees of the legislature in accordance with RCW 43.01.036 annual reports on the impact of the pilot program with a final report due no later than January 1, 2026.

(4) This section expires July 1, 2026.

Passed by the House January 26, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 119

[House Bill 1641]

## CUSTOM FARMING SERVICES AND AGRICULTURAL HAULING—TAX EXEMPTIONS

AN ACT Relating to restoring the business and occupation and public utility tax exemption for custom farming and hauling farm products; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; creating new sections; 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 82.04 RCW to read as follows:

(1) This chapter does not apply to any:

(a) Person performing custom farming services for a farmer, when the person performing the custom farming services is: (i) An eligible farmer; or (ii) at least 50 percent owned by an eligible farmer; or

(b) Person performing farm management services, contract labor services, services provided with respect to animals that are agricultural products, or any combination of these services, for a farmer or for a person performing custom farming services, when the person performing the farm management services, contract labor services, services with respect to animals, or any combination of these services, and the farmer or person performing custom farming services are related.

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

(a)(i) "Custom farming services" means the performance of specific farming operations through the use of any farm machinery or equipment, farm implement, or draft animal, together with an operator, when: (A) The specific farming operation consists of activities directly related to the growing, raising, or producing of any agricultural product to be sold or consumed by a farmer; and (B) the performance of the specific farming operation is for, and under a contract with, or the direction or supervision of, a farmer. "Custom farming services" does not include the custom application of fertilizers, chemicals, or biologicals, or any services related to the growing, raising, or producing of marijuana.

(ii) For the purposes of this subsection (2)(a), "specific farming operation" includes specific planting, cultivating, or harvesting activities, or similar specific farming operations. The term does not include veterinary services as defined in RCW 18.92.010; farrier, boarding, training, or appraisal services; artificial insemination or stud services, or agricultural consulting services; packing or processing of agricultural products; or pumping or other waste disposal services.

(b) "Eligible farmer" means a person who is eligible for an exemption certificate under RCW 82.08.855 at the time that the custom farming services are rendered, regardless of whether the person has applied for an exemption certificate under RCW 82.08.855.

(c) "Farm management services" means the consultative decisions made for the operations of the farm including, but not limited to, determining which crops to plant, the choice and timing of application of fertilizers and chemicals, the horticultural practices to apply, the marketing of crops and livestock, and the care and feeding of animals. "Farm management services" does not include any services related to the growing, raising, or producing of marijuana.



(d) "Related" means having any of the relationships specifically described in section 267(b) (1), (2), and (4) through (13) of the internal revenue code, as amended or renumbered as of January 1, 2007.

**NEW SECTION. Sec. 2.** A new section is added to chapter 82.16 RCW to read as follows:

(1) This chapter shall not apply to any person hauling agricultural products or farm machinery or equipment for a farmer or for a person performing custom farming services, when the person providing the hauling and the farmer or person performing custom farming services are related.

(2) The exemption provided by this section shall not apply to the hauling of any substances or articles manufactured from agricultural products. For the purposes of this subsection, "manufactured" has the same meaning as "to manufacture" in RCW 82.04.120.

(3) The definitions in RCW 82.04.213 and section 1 of this act apply to this section.

**NEW SECTION. Sec. 3.** (1) This section is the tax preference performance statement for the tax preference contained in sections 1 and 2, chapter . . . , Laws of 2022 (sections 1 and 2 of this act). This performance statement 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 reduce structural inefficiencies in the tax structure, as indicated in RCW 82.32.808(2)(d).

(3) It is the legislature's specific public policy objective to provide tax relief to farmers, including those who changed their farm structure in response to federal regulations regarding irrigated water.

**NEW SECTION. Sec. 4.** The provisions of RCW 82.32.805 and 82.32.808(4) do not apply to this act.

**NEW SECTION. Sec. 5.** This act takes effect July 1, 2022.

Passed by the House March 4, 2022.

Passed by the Senate March 10, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 120

[Substitute House Bill 1646]

### DEMENCIA ACTION COLLABORATIVE

AN ACT Relating to continuing the work of the dementia action collaborative; adding a new section to chapter 43.20A 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.** The legislature finds that:

(1) In 2020, an estimated 120,000 Washingtonians age 65 and older were living with Alzheimer's disease or another dementia and the number is expected to rise to 140,000 by 2025;

(2) Dementia affects the whole family in many ways, including pulling family members, most often women, out of the workforce to care for their loved ones with the disease;

(3) There are an estimated 295,000 unpaid caregivers in Washington providing 426,000,000 total hours of unpaid care annually;

(4) The legislature authorized the preparation of the first Washington state plan to address Alzheimer's disease and other dementias in 2016; and

(5) There is great value in continuing to improve awareness and services for individuals living with Alzheimer's disease and other dementias, and reestablishing the formal dementia action collaborative to update the state plan and make recommendations is essential.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.20A RCW to read as follows:

(1) The dementia action collaborative is established with members as provided in this subsection.

(a) The governor shall appoint the following members, and may appoint additional members at the governor's discretion:

- (i) A representative of the governor's office;
- (ii) A representative and an alternate from the department in the aging and long-term support administration;
- (iii) A representative and an alternate from the department in the developmental disabilities administration;
- (iv) A representative and an alternate from the department of health;
- (v) A representative and an alternate from the health care authority;
- (vi) A representative and an alternate from the office of the state long-term care ombuds;
- (vii) At least one person with Alzheimer's disease or another dementia;
- (viii) A caregiver of a person with Alzheimer's disease or another dementia;
- (ix) A representative of the University of Washington's memory and brain wellness center;
- (x) A representative of an organization representing area agencies on aging;
- (xi) A representative of an association representing long-term care facilities in Washington;
- (xii) A representative of an association representing physicians in Washington;
- (xiii) A representative of a Washington-based organization of volunteers, family, and friends of those affected by Alzheimer's disease and other dementias;
- (xiv) A representative of an Alzheimer's advocacy organization;
- (xv) An attorney who specializes in elder law;
- (xvi) An Alzheimer's disease researcher;
- (xvii) A representative of an organization representing emergency medical service providers in Washington;
- (xviii) An expert in workforce development;
- (xix) A representative of the Washington state council on aging;
- (xx) A representative of the governor's office of Indian affairs;
- (xxi) A licensed behavioral health provider with clinical expertise in Alzheimer's disease or other dementias;
- (xxii) A representative of a health care organization that primarily serves people of color, including seniors; and

(xxiii) A nurse with expertise in serving individuals with Alzheimer's disease or other dementias.

(b) In appointing members to the dementia action collaborative, the governor shall give priority to persons who had previously served on the Alzheimer's disease working group established pursuant to chapter 89 (Senate Bill No. 6124), Laws of 2014, and its successor work groups.

(2)(a) The secretary or the secretary's designee shall convene the dementia action collaborative and submit all required reports. The secretary or the secretary's designee shall serve as the cochair with either the member representing an Alzheimer's disease advocacy organization or the member representing the Washington-based organization of volunteers, family, and friends of those affected by Alzheimer's disease and other dementias.

(b) The department shall provide any necessary administrative support to the dementia action collaborative.

(c) Meetings of the dementia action collaborative must be open to the public. At least one meeting each year must accept comments on the dementia action collaborative's proposed recommendations from members of the public, including comments from persons and families affected by Alzheimer's disease or other dementias. The department must use technological means, such as web casts, to assure public participation.

(3)(a) The dementia action collaborative must assess the current and future impacts of Alzheimer's disease and other dementias on Washington residents, including:

(i) Examining progress in implementing the Washington state Alzheimer's plan adopted in 2016;

(ii) Assessing available services and resources for serving persons with Alzheimer's disease and other dementias, as well as their families and caregivers;

(iii) Examining and developing strategies to rectify disparate effects of Alzheimer's disease and other dementias on people of color; and

(iv) Developing a strategy to mobilize a state response to this public health crisis.

(b) In addition to the activities in (a) of this subsection, the dementia action collaborative must review and revise the Washington state Alzheimer's plan adopted in 2016, and any subsequent revisions to that plan. Revisions to the plan must evaluate and address:

(i) Population trends related to Alzheimer's disease and other dementias, including:

(A) Demographic information related to Washington residents living with Alzheimer's disease or other dementias, including average age, average age at first diagnosis, gender, race, and comorbidities; and

(B) Disparities in the prevalence of Alzheimer's disease and other dementias between different racial and ethnic populations;

(ii) Existing services, resources, and health care system capacity, including:

(A) The types, cost, and availability of dementia services, medicaid reimbursement rates for dementia services, and the effect of medicaid reimbursement rates on the availability of dementia services;

(B) Dementia-specific training requirements for long-term services and supports staff;

(C) The needs of public safety and law enforcement to respond to persons with Alzheimer's disease or other dementias;

(D) The availability of home and community-based resources, including respite care and other services to assist families, for persons with Alzheimer's disease or other dementias;

(E) Availability of long-term dementia care beds, regardless of payer;

(F) State funding and Alzheimer's disease research through Washington universities and other resources; and

(G) Advances in knowledge regarding brain health, dementia, and risk reduction related to Alzheimer's disease and other dementias since the adoption of the Washington state Alzheimer's plan established in 2016.

(4) The department must submit a report of the dementia action collaborative's findings and recommendations to the governor and the legislature in the form of an updated Washington state Alzheimer's plan no later than October 1, 2023. The department must submit annual updates and recommendations of the dementia action collaborative for legislative and executive branch agency action to the governor and the legislature each October 1st, beginning October 1, 2024.

(5) This section expires June 30, 2028.

Passed by the House March 7, 2022.

Passed by the Senate February 25, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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**CHAPTER 121**

[House Bill 1647]

**BUILDING FOR THE ARTS PROGRAM—STATE FUNDING**

AN ACT Relating to the building for the arts program; and amending RCW 43.63A.750.

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

**Sec. 1.** RCW 43.63A.750 and 2021 c 332 s 7042 are each amended to read as follows:

(1) A competitive grant program to assist nonprofit organizations in acquiring, constructing, or rehabilitating performing arts, art museums, and cultural facilities is created.

(2)(a) The department shall submit a list of recommended performing arts, art museum projects, and cultural organization projects eligible for funding to the governor and the legislature in the department's biennial capital budget request beginning with the 2001-2003 biennium and thereafter. The list, in priority order, shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list shall not exceed ~~((twelve million dollars, except that lists submitted during the 2019-2021 and 2021-2023 fiscal biennia may not exceed sixteen million dollars))~~ \$18,000,000.

(b) The department shall establish a competitive process to prioritize applications for state assistance as follows:

(i) The department shall conduct a statewide solicitation of project applications from nonprofit organizations, local governments, and other entities, as determined by the department. The department shall evaluate and rank applications in consultation with a citizen advisory committee, including a representative from the state arts commission, using objective criteria. The evaluation and ranking process shall also consider local community support for projects and an examination of existing assets that applicants may apply to projects.

(ii) The department may establish the amount of state grant assistance for individual project applications but the amount shall not exceed ~~((twenty percent, or))~~ thirty-three and one-third percent ~~((for lists submitted during the 2019-2021 fiscal biennium,))~~ of the estimated total capital cost or actual cost of a project, whichever is less. The remaining portions of the project capital cost shall be a match from nonstate sources. The nonstate match may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions. The department is authorized to set matching requirements for individual projects. State assistance may be used to fund separate definable phases of a project if the project demonstrates adequate progress and has secured the necessary match funding.

(iii) The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects. In contracts for grants authorized under this section, the department shall include provisions requiring that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

Passed by the House February 2, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 122

[House Bill 1651]

### IMMEDIATE POSTPARTUM CONTRACEPTION—PROVIDER BILLING

AN ACT Relating to allowing providers to bill separately for immediate postpartum contraception; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.43 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 healthy birth spacing helps reduce adverse health outcomes for both parents and babies. The legislature further finds that increasing immediate postpartum access to contraception, before a patient is discharged from the hospital or birthing center, is critical to maternal and newborn health and that immediate postpartum contraception is associated with longer contraceptive coverage, fewer

unintended pregnancies, and cost savings for payers and health care systems. To help achieve these outcomes, it is the intent of the legislature to increase access to immediate postpartum contraception by requiring commercial health insurers to pay for immediate postpartum contraception separately from the maternity bundle in a manner that mirrors the payment process for immediate postpartum contraception used by the state's medicaid program.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) For births taking place in a licensed hospital or birthing center, a health plan offered to employees and their covered dependents must allow a provider to separately bill for devices, implants, professional services, or a combination thereof, associated with immediate postpartum contraception and may not consider such devices, implants, services, or combinations thereof to be part of any payments for general obstetric procedures.

(2) For purposes of this section, "immediate postpartum contraception" means the postpartum insertion of intrauterine devices or contraceptive implants performed before the patient is discharged from the hospital or birthing center and includes the devices or implants themselves.

(3) This section does not apply to facility services associated with immediate postpartum contraception.

(4) Nothing in this section affects an enrollee's right to directly access women's health care services, including contraceptive services.

(5) This section applies to health plans issued or renewed on or after January 1, 2023.

**NEW SECTION. Sec. 3.** A new section is added to chapter 48.43 RCW to read as follows:

(1) For births taking place in a licensed hospital or birthing center, a health plan must allow a provider to separately bill for devices, implants, professional services, or a combination thereof, associated with immediate postpartum contraception and may not consider such devices, implants, services, or combinations thereof to be part of any payments for general obstetric procedures.

(2) For purposes of this section, "immediate postpartum contraception" means the postpartum insertion of intrauterine devices or contraceptive implants performed before the patient is discharged from the hospital or birthing center and includes the devices or implants themselves.

(3) This section does not apply to facility services associated with immediate postpartum contraception.

(4) Nothing in this section affects an enrollee's right to directly access women's health care services, including contraceptive services.

(5) This section applies to health plans issued or renewed on or after January 1, 2023.

Passed by the House January 26, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 123

[Engrossed Substitute House Bill 1689]

## CANCER BIOMARKER TESTING—HEALTH PLAN PRIOR AUTHORIZATION

AN ACT Relating to exempting biomarker testing from prior authorization for patients with late stage cancer; and adding a new section to chapter 48.43 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) Health plans issued or renewed on or after January 1, 2023, shall exempt an enrollee from prior authorization requirements for coverage of biomarker testing for either of the following:

- (a) Stage 3 or 4 cancer; or
- (b) Recurrent, relapsed, refractory, or metastatic cancer.

(2) For purposes of this section, "biomarker test" means a single or multigene diagnostic test of the cancer patient's biospecimen, such as tissue, blood, or other bodily fluids, for DNA, RNA, or protein alterations, including phenotypic characteristics of a malignancy, to identify an individual with a subtype of cancer, in order to guide patient treatment.

(3) For purposes of this section, biomarker testing must be:

(a) Recommended in the latest version of nationally recognized guidelines or biomarker compendia, such as those published by the national comprehensive cancer network;

(b) Approved by the United States food and drug administration or a validated clinical laboratory test performed in a clinical laboratory certified under the clinical laboratory improvement amendments or in an alternative laboratory program approved by the centers for medicare and medicaid services;

- (c) A covered service; and
- (d) Prescribed by an in-network provider.

(4) This section does not limit, prohibit, or modify an enrollee's rights to biomarker testing as part of an approved clinical trial under chapter 69.77 RCW.

(5) Nothing in this section may be construed to mandate coverage of a health care service.

(6) Nothing in this section prohibits a health plan from requiring a biomarker test prior to approving a drug or treatment.

(7) This section does not limit an enrollee's rights to access individual gene tests.

Passed by the House March 7, 2022.

Passed by the Senate March 4, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 124

[House Bill 1700]

## WATERCRAFT EXCISE TAX—DEPOSIT IN DERELICT VESSEL REMOVAL ACCOUNT

AN ACT Relating to sustainable funding for the derelict vessel removal account using the vessel watercraft excise tax; amending RCW 82.49.030; 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 the department of natural resources' derelict vessel removal program is seen as a national model for vessel removal, yet funding for the program is not sufficient to remove all sunken and abandoned vessels from state waters.

(2) The legislature finds that since 2002, the department's derelict vessel removal program has removed almost 1,000 vessels and eliminated environmental and habitat threats to some 10.6 cumulative miles of Washington's waters.

(3) The legislature further finds that the number of derelict vessels continues to increase due to insufficient funding to address the increased need as more vessels are added to the list each year, resulting in some vessels lingering for years. Currently, there are around 270 identified vessels of concern, or 7,500 linear feet of vessels. These derelict vessels have critical impacts on water quality, salmon, and southern resident killer whales.

(4) It is the intent of the legislature to provide reliable funding for the derelict vessel removal program to:

(a) Remove all currently known derelict vessels by 2031;

(b) Support enforcement programs to reduce overall vessel abandonment and ensure compliance with vessel registration and insurance requirements;

(c) Increase investments in proactive approaches like the derelict vessel turn-in program;

(d) Utilize the results of a pilot vessel recycling program to work toward a more ongoing, permanent vessel recycling program;

(e) Through the vessel turn-in program and collaborative partnerships, increase capacity to address abandoned and derelict vessels that pose a threat to the public but are not on state-owned aquatic lands; and

(f) Provide additional support to authorized public entities, particularly in more rural areas that lack on-water resources, so they are able to initiate more removals within their jurisdiction.

**Sec. 2.** RCW 82.49.030 and 2010 c 161 s 1045 are each amended to read as follows:

(1) The excise tax imposed under this chapter is due and payable to the department of licensing, county auditor or other agent, or subagent appointed by the director of the department of licensing at the time of registration of a vessel. The department of licensing shall not issue or renew a registration for a vessel until the tax is paid in full.

(2) ~~((The))~~ Twenty-five percent of the excise tax collected each fiscal year under this chapter must be deposited in the derelict vessel removal account created in RCW 79.100.100. The remaining excise tax collected under this chapter must be deposited in the general fund.

Passed by the House January 28, 2022.

Passed by the Senate March 4, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.



## CHAPTER 125

[Substitute House Bill 1701]

LAW ENFORCEMENT OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM—  
VARIOUS PROVISIONS

AN ACT Relating to law enforcement officers' and firefighters' retirement system benefits; amending RCW 41.26.420, 41.26.463, 41.45.155, 41.45.158, 41.45.0604, and 41.26.802; adding a new section to chapter 41.26 RCW; and creating a new section.

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

**Sec. 1.** RCW 41.26.420 and 1993 c 517 s 2 are each amended to read as follows:

## TIERED MULTIPLIER BENEFIT IMPROVEMENT.

(1) Except as provided in RCW 41.26.530, a member of the retirement system shall receive a retirement allowance equal to two percent of such member's final average salary for each year of service.

(2) Beginning January 16, 2023, members new to the retirement system after February 1, 2021, who earn more than 15 years of service credit shall receive a tiered multiplier retirement allowance as follows:

(a) Two percent of such member's final average salary for the first 15 years of service;

(b) Two and one-half percent of such member's final average salary for the 10 years of service after 15 years and up to 25 years; and

(c) Two percent of such member's final average salary for years of service above 25 years.

(3) Members active in the retirement system on or before February 1, 2021, at retirement must make an irrevocable choice between the lump sum defined benefit in section 2 of this act or a tiered multiplier retirement allowance as follows:

(a) Two percent of such member's final average salary for the first 15 years of service;

(b) Two and one-half percent of such member's final average salary for the 10 years of service after 15 years and up to 25 years; and

(c) Two percent of such member's final average salary for years of service above 25 years.

(4) Any member who receives the tiered multiplier benefit in this section is not eligible for the lump sum defined benefit in section 2 of this act.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.26 RCW under the subchapter heading "plan 2" to read as follows:

## LUMP SUM BENEFIT IMPROVEMENT.

(1) Members who are retired on or before February 1, 2021, will receive a one-time lump sum defined benefit of \$100 per service credit month payable by January 31, 2023.

(a) Members who retired for an in the line of duty disability under RCW 41.26.470 shall receive the greater of the lump sum defined benefit of \$100 per service credit month or a lump sum defined benefit of \$20,000.

(b) A member's beneficiary is eligible for an in the line of duty death benefit under RCW 41.26.048. If there is more than one eligible beneficiary the lump sum defined benefit will be distributed in accordance with RCW 41.26.048.

(c) If the member is deceased the member's survivor beneficiary under RCW 41.26.460 is eligible for this lump sum defined benefit.

(2) Members who are active in the plan on or before February 1, 2021, must make an irrevocable choice at retirement between the tiered multiplier benefit defined in RCW 41.26.420(3) or a one-time lump sum defined benefit of \$100 per service credit month to be paid at retirement.

(a) Members who retire for an in the line of duty disability under RCW 41.26.470 and who elect to receive this lump sum defined benefit shall receive the greater of the lump sum defined benefit of \$100 per service credit month or a lump sum defined benefit of \$20,000.

(b) A member's beneficiary eligible for an in the line of duty death benefit under RCW 41.26.048 and who elects to receive this lump sum defined benefit shall receive the greater of the lump sum defined benefit of \$100 per service credit month or a lump sum defined benefit of \$20,000. If there is more than one eligible beneficiary the lump sum defined benefit will be distributed in accordance with RCW 41.26.048.

(c) For a beneficiary of a member who dies in service but not in an in the line of duty death, the distribution shall be made according to the member's beneficiary designation under this chapter.

(3) Members who are inactive on or before February 1, 2021, but who later return to membership must make an irrevocable choice at retirement between the tiered multiplier benefit in RCW 41.26.420 and this lump sum defined benefit.

(4) Members who receive a refund of contributions under RCW 41.26.540 are not eligible for this lump sum defined benefit.

(5) This lump sum defined benefit is exempt from judicial process and taxes under RCW 41.26.053.

(6) Any member who receives this lump sum defined benefit is not eligible for the tiered multiplier benefit in RCW 41.26.420.

**Sec. 3.** RCW 41.26.463 and 2014 c 91 s 1 are each amended to read as follows:

**ANNUITY OPTION.**

(1) At the time of retirement, plan 2 members may purchase an optional actuarially equivalent life annuity benefit from the ~~((Washington))~~ Washington law enforcement officers' and firefighters' ~~((retirement))~~ system plan 2 retirement fund established in RCW 41.50.075. A minimum payment of twenty-five thousand dollars is required.

(2) Retirees, or their beneficiaries, who have received a one-time lump sum defined benefit under section 2 of this act may purchase an optional actuarially equivalent life annuity benefit from the Washington law enforcement officers' and firefighters' system plan 2 retirement fund established in RCW 41.50.075, with the money received from the lump sum defined benefit. A minimum payment of \$20,000 is required.

(3) Subject to rules adopted by the department, a member purchasing an annuity under this section must pay all of the cost with an eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan.

(a) The department shall adopt rules to ensure that all eligible rollovers and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another

plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(b) "Eligible retirement plan" means a tax qualified plan offered by a governmental employer.

**Sec. 4.** RCW 41.45.155 and 2009 c 561 s 6 are each amended to read as follows:

**MINIMUM CONTRIBUTION RATES.**

(1) Beginning July 1, 2011, a minimum contribution rate is established for the plans 2 and 3 normal cost as part of the basic employer contribution rate for the public employees' retirement system. The minimum contribution rate for the plans 2 and 3 employer normal cost shall equal the total contribution rate required to fund eighty percent of the plans 2 and 3 employer normal cost as calculated under the entry age normal cost method. This minimum rate, when applicable, shall be collected in addition to any contribution rate required to amortize past gain-sharing distributions in plan 3.

(2) Beginning July 1, 2011, a minimum contribution rate is established for the plan 2 normal cost as part of the basic employer contribution rate for the public safety employees' retirement system. The minimum contribution rate for the plan 2 normal cost shall equal the total contribution rate required to fund eighty percent of the plan 2 normal cost as calculated under the entry age normal cost method.

(3) Beginning September 1, 2011, a minimum contribution rate is established for the plans 2 and 3 normal cost as part of the basic employer contribution rate for the school employees' retirement system. The minimum contribution rate for the plans 2 and 3 employer normal cost shall equal the total contribution rate required to fund eighty percent of the plans 2 and 3 employer normal cost as calculated under the entry age normal cost method. This minimum rate, when applicable, shall be collected in addition to any contribution rate required to amortize past gain-sharing distributions in plan 3.

(4) Beginning September 1, 2011, a minimum contribution rate is established for the plans 2 and 3 normal cost as part of the basic employer contribution rate for the teachers' retirement system. The minimum contribution rate for the plans 2 and 3 employer normal cost shall equal the total contribution rate required to fund eighty percent of the plans 2 and 3 employer normal cost as calculated under the entry age normal cost method. This minimum rate, when applicable, shall be collected in addition to any contribution rate required to amortize past gain-sharing distributions in plan 3.

(5) A minimum contribution rate is established for the plan 2 normal cost as part of the basic employer and state contribution rate for the law enforcement officers' and firefighters' retirement system. The council may not adopt changes to the minimum contribution rate for plan 2 of the law enforcement officers' and firefighters' retirement system under subsection (6) of this section. On June 30th of each even-numbered year, if the funded status of the law enforcement officers' and firefighters' retirement system plan 2 as measured by the most recent completed actuarial valuation performed by the office of the state actuary is:

(a) Less than 105 percent, then the minimum contribution rate for the employer and state normal cost shall equal the total contribution rate required to

fund 100 percent of the plan 2 employer normal cost as calculated under the entry age normal cost method;

(b) Greater than or equal to 105 percent and less than 110 percent, then the minimum contribution rate for the employer and state normal cost shall equal the total contribution rate required to fund 90 percent of the plan 2 employer normal cost as calculated under the entry age normal cost method; or

(c) Greater than or equal to 110 percent, then the minimum contribution rate for the employer and state normal cost shall equal the total contribution rate required to fund 80 percent of the plan 2 employer normal cost as calculated under the entry age normal cost method.

(6) Upon completion of each biennial actuarial valuation, the state actuary shall review the appropriateness of these minimum contribution rates and recommend to the council any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods, or experience. ((Any)) The minimum contribution rates in this section, including changes adopted by the council, shall be subject to revision by the legislature.

**Sec. 5.** RCW 41.45.158 and 2006 c 365 s 4 are each amended to read as follows:

#### MINIMUM CONTRIBUTION RATES.

(1) Beginning July 1, 2009, a minimum contribution rate is established for the plans 2 and 3 normal cost as part of the required contribution rate for members of plan 2 of the public employees' retirement system. The minimum contribution rate for the plans 2 and 3 employee normal cost shall equal the total contribution rate required to fund eighty percent of the plans 2 and 3 employee normal cost as calculated under the entry age normal cost method.

(2) Beginning September 1, 2009, a minimum contribution rate is established for the plans 2 and 3 normal cost as part of the required contribution rate for members of plan 2 of the school employees' retirement system. The minimum contribution rate for the plans 2 and 3 employee normal cost shall equal the total contribution rate required to fund eighty percent of the plans 2 and 3 employee normal cost as calculated under the entry age normal cost method.

(3) Beginning September 1, 2009, a minimum contribution rate is established for the plans 2 and 3 normal cost as part of the required contribution rate for members of plan 2 of the teachers' retirement system. The minimum contribution rate for the plans 2 and 3 employee normal cost shall equal the total contribution rate required to fund eighty percent of the plans 2 and 3 employee normal cost as calculated under the entry age normal cost method.

(4) A minimum contribution rate is established for the plan 2 normal cost as part of the basic member contribution rate for the law enforcement officers' and firefighters' retirement system. The council may not adopt changes to the minimum contribution rate for plan 2 of the law enforcement officers' and firefighters' retirement system under subsection (5) of this section. On June 30th of each even-numbered year, if the funded status of the law enforcement officers' and firefighters' retirement system plan 2 as measured by the most recent completed actuarial valuation performed by the office of the state actuary is:

(a) Less than 105 percent, then the minimum contribution rate for the member normal cost shall equal the total contribution rate required to fund 100

percent of the plan 2 member normal cost as calculated under the entry age normal cost method;

(b) Greater than or equal to 105 percent and less than 110 percent, then the minimum contribution rate for the member normal cost shall equal the total contribution rate required to fund 90 percent of the plan 2 member normal cost as calculated under the entry age normal cost method; or

(c) Greater than or equal to 110 percent, then the minimum contribution rate for the employer and state normal cost shall equal the total contribution rate required to fund 80 percent of the plan 2 employer normal cost as calculated under the entry age normal cost method.

(5) Upon completion of each biennial actuarial valuation, the state actuary shall review the appropriateness of these minimum contribution rates and recommend to the legislature any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods, or experience.

**Sec. 6.** RCW 41.45.0604 and 2007 c 280 s 3 are each amended to read as follows:

**FREEZE LEOFF 2 CONTRIBUTION RATES.**

(1)(a) Not later than July 31, 2008, and every even-numbered year thereafter, the law enforcement officers' and firefighters' plan 2 retirement board shall adopt contribution rates for the law enforcement officers' and firefighters' retirement system plan 2 as provided in RCW 41.26.720(1)(a).

(b) For 2021-2023 and 2023-2025 fiscal biennia, contribution rates for the law enforcement officers' and firefighters' retirement system plan 2 may not exceed the rates adopted by the law enforcement officers' and firefighters' plan 2 retirement board in 2020.

(2) The law enforcement officers' and firefighters' plan 2 retirement board shall immediately notify the directors of the office of financial management and department of retirement systems of the state, employer, and employee rates adopted. Thereafter, the director shall collect those rates adopted by the board. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

**Sec. 7.** RCW 41.26.802 and 2019 c 366 s 2 are each amended to read as follows:

**TRANSFER OF FUNDS.**

(1) Prior to May 13, 2019, this section required certain transfers to be made to the local public safety enhancement account. After May 13, 2019, except for the transfer in subsection (2) of this section, no further transfers will be made to the local public safety enhancement account pursuant to this section.

(2) On July 1, 2019, the state treasurer shall transfer the sum of three hundred million dollars from the law enforcement officers' and firefighters' plan 2 retirement fund to the local law enforcement officers' and firefighters' retirement system benefits improvement account.

(3) By July 31, 2022, the Washington state investment board shall transfer the difference between the value of the benefit enhancements in this act as identified by the office of the state actuary and the value of the local law enforcement officers' and firefighters' retirement system benefits improvement account, from the law enforcement officers' and firefighters' system plan 2

retirement fund to the local law enforcement officers' and firefighters' retirement system benefits improvement account.

(4) By August 31, 2022, the Washington state investment board shall transfer the total available balance of the local law enforcement officers' and firefighters' retirement system benefits improvement account to the law enforcement officers' and firefighters' system plan 2 retirement fund. The amount transferred under this subsection goes toward the benefit enhancements in this act.

**NEW SECTION. Sec. 8. OFFSET LANGUAGE.** The transfer of funds in section 7 of this act is intended to pay the full cost of the benefit improvements in sections 1 and 2 of this act for current law enforcement officers' and firefighters' retirement system plan 2 members so that contribution rates under the plan's minimum funding policy for those members will not increase as a result of this benefit improvement. To accomplish this goal, after the transfer of funds in section 7 of this act the office of the state actuary must calculate a rate reduction to be applied to rates calculated in sections 4(5) (a) and (b) and 5(4) (a) and (b) of this act. This rate must be calculated in time for it to go into effect on July 1, 2025, using any data, assumptions, and methods the office of the state actuary believes are reasonable for this purpose.

Passed by the House February 8, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 126

[Substitute House Bill 1708]

### AUDIO-ONLY TELEMEDICINE—FACILITY FEES

AN ACT Relating to facility fees for audio-only telemedicine; and adding a new section to chapter 70.41 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 70.41 RCW to read as follows:

A hospital that is an originating site or distant site for audio-only telemedicine may not charge a facility fee.

Passed by the House January 26, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 127

[Substitute House Bill 1747]

### CHILD WELFARE PROCEEDINGS—RELATIVE PLACEMENTS

AN ACT Relating to supporting relative placements in child welfare proceedings; and amending RCW 13.34.145, 13.34.180, 13.34.210, and 74.13.062.

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

**Sec. 1.** RCW 13.34.145 and 2020 c 312 s 118 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than ~~((twelve))~~ 12 months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than ~~((twelve))~~ 12 months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed. Every effort shall be made to provide stability in long-term placement, and to avoid disruption of placement, unless the child is being returned home or it is in the best interest of the child.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for ~~((fifteen))~~ 15 months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ~~((ten))~~ 10 working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) When the youth is at least age ~~((seventeen))~~ 17 years but not older than ~~((seventeen))~~ 17 years and six months, the department shall provide the youth with written documentation which explains the availability of extended foster care services and detailed instructions regarding how the youth may access such services after he or she reaches age ~~((eighteen))~~ 18 years.

(4) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate. The court shall find, as of the date of the hearing, that the child's placement and plan of care is the best permanency plan for the child and provide compelling reasons why it continues to not be in the child's best interest to (i) return home; (ii) be placed for adoption; (iii) be placed with a legal guardian; or (iv) be placed with a fit and willing relative. If the child is present at the hearing, the court should ask the child about his or her desired permanency outcome.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has

not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the department and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to department staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for ~~((fifteen))~~ 15 of the most recent ~~((twenty-two))~~ 22 months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the department to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

(c) Regardless of whether the primary permanency planning goal has been achieved, for a child who remains placed in a qualified residential treatment program as defined in this chapter for at least ~~((sixty))~~ 60 days, and remains placed there at subsequent permanency planning hearings, the court shall establish in writing:

(i) Whether ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster family home;

(ii) Whether the child's placement provides the most effective and appropriate level of care in the least restrictive environment;

(iii) Whether the placement is consistent with the child's short and long-term goals as stated in the child's permanency plan;

(iv) What specific treatment or service needs will be met in the placement, and how long the child is expected to need the treatment or services; and

(v) What efforts the department has made to prepare the child to return home or be placed with a fit and willing relative as defined in RCW 13.34.030, a



Title 13 RCW guardian, a guardian pursuant to RCW 11.130.215, an adoptive parent, or in a foster family home.

(5) Following this inquiry, at the permanency planning hearing, the court shall order the department to file a petition seeking termination of parental rights if the child has been in out-of-home care for ~~((fifteen))~~ 15 of the last ~~((twenty-two))~~ 22 months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child.

(a) For purposes of this subsection, "good cause exception" includes but is not limited to the following:

(i) The child is being cared for by a relative;

(ii) The department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home;

(iii) The department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests;

(iv) The parent is incarcerated, or the parent's prior incarceration is a significant factor in why the child has been in foster care for ~~((fifteen))~~ 15 of the last ~~((twenty-two))~~ 22 months, the parent maintains a meaningful role in the child's life, and the department has not documented another reason why it would be otherwise appropriate to file a petition pursuant to this section;

(v) Where a parent has been accepted into a dependency treatment court program or long-term substance abuse or dual diagnoses treatment program and is demonstrating compliance with treatment goals; ~~((or))~~

(vi) Where a parent who has been court ordered to complete services necessary for the child's safe return home files a declaration under penalty of perjury stating the parent's financial inability to pay for the same court-ordered services, and also declares the department was unwilling or unable to pay for the same services necessary for the child's safe return home; or

(vii) The department has not yet met with the caregiver for the child to discuss guardianship as an alternative to adoption or the court has determined that guardianship is an appropriate permanent plan.

(b) The court's assessment of whether a parent who is incarcerated maintains a meaningful role in the child's life may include consideration of the following:

(i) The parent's expressions or acts of manifesting concern for the child, such as letters, telephone calls, visits, and other forms of communication with the child;

(ii) The parent's efforts to communicate and work with the department or other individuals for the purpose of complying with the service plan and repairing, maintaining, or building the parent-child relationship;

(iii) A positive response by the parent to the reasonable efforts of the department;

(iv) Information provided by individuals or agencies in a reasonable position to assist the court in making this assessment, including but not limited to the parent's attorney, correctional and mental health personnel, or other individuals providing services to the parent;

(v) Limitations in the parent's access to family support programs, therapeutic services, and visiting opportunities, restrictions to telephone and mail services, inability to participate in foster care planning meetings, and difficulty accessing lawyers and participating meaningfully in court proceedings; and

(vi) Whether the continued involvement of the parent in the child's life is in the child's best interest.

(c) The constraints of a parent's current or prior incarceration and associated delays or barriers to accessing court-mandated services may be considered in rebuttal to a claim of aggravated circumstances under RCW 13.34.132(4)(h) for a parent's failure to complete available treatment.

(6)(a) If the permanency plan identifies independent living as a goal, the court at the permanency planning hearing shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care. The court will inquire whether the child has been provided information about extended foster care services.

(b) The permanency plan shall also specifically identify the services, including extended foster care services, where appropriate, that will be provided to assist the child to make a successful transition from foster care to independent living.

(c) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(7) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall:

(a) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(6), and 13.34.096; and

(b) ~~((If the department is recommending a placement other than the child's current placement with a foster parent, relative, or other suitable person, enter a finding as to the reasons for the recommendation for a change in placement.))~~ Instruct the department to discuss guardianship as a permanent option for the child with the child's parents and caregiver as an alternative to termination of parental rights and adoption. No child who is placed with a relative or other suitable person may be moved, unless, pursuant to the criteria established in RCW 13.34.130, the court finds that a change in circumstances necessitates a change in placement.

(8) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the department to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(9) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every (~~twelve~~) 12 months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(10) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(11) If the court orders the child returned home, casework supervision by the department shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(12) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(13) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (12) of this section are met.

(14) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the department requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(15) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the department of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(16) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**Sec. 2.** RCW 13.34.180 and 2018 c 284 s 20 are each amended to read as follows:

(1) A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(8), and shall allege all of the following unless subsection (3) or (4) of this section applies:

(a) That the child has been found to be a dependent child;

(b) That the court has entered a dispositional order pursuant to RCW 13.34.130;

(c) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency;

(d) That the services ordered under RCW 13.34.136 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided;

(e) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. A parent's failure to substantially improve parental deficiencies within ~~((twelve))~~ 12 months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been clearly offered or provided. In determining whether the conditions will be remedied the court may consider, but is not limited to, the following factors:

(i) Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documented multiple failed treatment attempts;

(ii) Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documentation that there is no treatment that can render the parent capable of providing proper care for the child in the near future; or

(iii) Failure of the parent to have contact with the child for an extended period of time after the filing of the dependency petition if the parent was provided an opportunity to have a relationship with the child by the department or the court and received documented notice of the potential consequences of this failure, except that the actual inability of a parent to have visitation with the child including, but not limited to, mitigating circumstances such as a parent's current or prior incarceration or service in the military does not in and of itself constitute failure to have contact with the child; and

(f) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home. In making this determination, the court must consider the efforts taken by the department to support a guardianship and whether a guardianship is available as a permanent option for the child. If the parent is incarcerated, the court shall consider whether a parent maintains a meaningful role in his or her child's life based on factors identified in RCW 13.34.145(5)(b); whether the department made reasonable efforts as defined in this chapter; and whether particular barriers existed as described in RCW 13.34.145(5)(b) including, but not limited

to, delays or barriers experienced in keeping the agency apprised of his or her location and in accessing visitation or other meaningful contact with the child.

(2) As evidence of rebuttal to any presumption established pursuant to subsection (1)(e) of this section, the court may consider the particular constraints of a parent's current or prior incarceration. Such evidence may include, but is not limited to, delays or barriers a parent may experience in keeping the agency apprised of his or her location and in accessing visitation or other meaningful contact with the child.

(3) In lieu of the allegations in subsection (1) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.

(4) In lieu of the allegations in subsection (1)(b) through (f) of this section, the petition may allege that the parent has been convicted of:

(a) Murder in the first degree, murder in the second degree, or homicide by abuse as defined in chapter 9A.32 RCW against another child of the parent;

(b) Manslaughter in the first degree or manslaughter in the second degree, as defined in chapter 9A.32 RCW against another child of the parent;

(c) Attempting, conspiring, or soliciting another to commit one or more of the crimes listed in (a) or (b) of this subsection; or

(d) Assault in the first or second degree, as defined in chapter 9A.36 RCW, against the surviving child or another child of the parent.

(5) When a parent has been sentenced to a long-term incarceration and has maintained a meaningful role in the child's life considering the factors provided in RCW 13.34.145(5)(b), and it is in the best interest of the child, the department should consider a permanent placement that allows the parent to maintain a relationship with his or her child, such as, but not limited to, a guardianship pursuant to chapter 13.36 RCW.

(6) Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:

#### "NOTICE

A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.

1. You have the right to a fact-finding hearing before a judge.

2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the department of children, youth, and families or other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing.

You may call (insert agency) for more information about your child. The agency's name and telephone number are (insert name and telephone number)."

**Sec. 3.** RCW 13.34.210 and 2020 c 312 s 120 are each amended to read as follows:

If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department willing to accept custody for the purpose of placing the child for adoption. If an adoptive home has not been identified, the department shall place the child in a licensed foster home, or take other suitable measures for the care and welfare of the child. The placement standards provided in RCW 13.34.130 continue to apply throughout the life of the case, except that the court need not consider whether reunification with the parent will be hindered when evaluating relative placements. The custodian shall have authority to consent to the adoption of the child consistent with chapter 26.33 RCW, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

If a child has not been adopted within six months after the date of the order and a guardianship of the child under chapter 13.36 RCW or a guardianship of a minor under RCW 11.130.215 has not been entered by the court, the court shall review the case every six months until a decree of adoption is entered. The department shall take reasonable steps to ensure that the child maintains relationships with siblings as provided in RCW 13.34.130(7) and shall report to the court the status and extent of such relationships.

**Sec. 4.** RCW 74.13.062 and 2017 3rd sp.s. c 6 s 404 are each amended to read as follows:

(1) The department shall adopt rules consistent with federal regulations for the receipt and expenditure of federal funds and implement a subsidy program for eligible relatives appointed by the court as a guardian under RCW 13.36.050 or as a guardian of a minor under RCW 11.130.215.

(2) For the purpose of licensing a relative seeking to be appointed as a guardian and eligible for a guardianship subsidy under this section, the department shall, on a case-by-case basis, and when determined to be in the best interests of the child:

(a) Waive nonsafety licensing standards; and

(b) Apply the list of disqualifying crimes in the adoption and safe families act, unless doing so would compromise the child's safety, or would adversely affect the state's ability to continue to obtain federal funding for child welfare related functions.

(3) Relative guardianship subsidy agreements shall be designed to promote long-term permanency for the child, and may include provisions for periodic review of the subsidy amount and the needs of the child.

Passed by the House February 2, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 128

[Substitute House Bill 1768]

### ENERGY CONSERVATION PROJECTS—PUBLIC ENTITIES

AN ACT Relating to updating definitions applicable to energy conservation projects involving public entities; amending RCW 39.35A.020 and 39.35C.020; reenacting and amending RCW 39.35C.010; adding a new section to chapter 39.35C RCW; and adding a new section to chapter 39.35A RCW.

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

**Sec. 1.** RCW 39.35C.010 and 2011 1st sp.s. c 43 s 248 are each reenacted and 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) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source. If these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions established by 18 C.F.R. Sec. 292.202 (c) through (m) apply.

(2)~~(a)~~ "Conservation" ~~((means))~~ includes reduced ~~((energy consumption or energy cost, or increased efficiency in the use of energy, and activities, measures, or equipment designed to achieve such results, but))~~;

(i) Energy consumption;

(ii) Energy demand;

(iii) Energy cost; or

(iv) Greenhouse gas emissions.

(b) "Conservation" does not include thermal or electric energy production from cogeneration.

(c) "Conservation" also ~~((means))~~ includes reductions in the use or cost of water, wastewater, or solid waste.

(3) "Cost-effective" means that the present value to a state agency or school district of the ~~((energy))~~ benefits reasonably expected to be ~~((saved))~~ achieved or produced by a facility, conservation activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(4) "Department" means the state department of enterprise services.

(5) "Energy" means energy as defined in RCW 43.21F.025(5).

(6) "Energy audit" has the definition provided in RCW 43.19.670, and may include a determination of the water or solid waste consumption characteristics of a facility.

(7) "Energy efficiency project" means a conservation or cogeneration project.

(8) "Energy efficiency services" means assistance furnished by the department to state agencies and school districts in identifying, evaluating, and implementing energy efficiency projects.

(9) "Local utility" means the utility or utilities in whose service territory a public facility is located.

(10) "Performance-based contracting" means contracts for which payment is conditional on achieving contractually specified energy savings.

(11) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(12) "Public facility" means a building ~~((or structure, or a group of buildings or structures at a single site)),~~ structure, group of buildings or structures at a single site, site improvement, or other facility owned by a state agency or school district.

(13) "State agency" means every state office or department, whether elective or appointive, state institutions of higher education, and all boards, commissions, or divisions of state government, however designated.

(14) "State facility" means a building or structure, or a group of buildings or structures at a single site, owned by a state agency.

(15) "Utility" means privately or publicly owned electric and gas utilities, electric cooperatives and mutuals, whether located within or without Washington state.

**Sec. 2.** RCW 39.35A.020 and 2007 c 39 s 2 are each amended to read as follows:

~~((Unless the context clearly indicates otherwise, the))~~ The definitions in this section ((shall)) apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Conservation" includes reduced:

(i) Energy consumption;

(ii) Energy demand;

(iii) Energy cost; or

(iv) Greenhouse gas emissions.

(b)(i) "Conservation" includes reductions in the use or cost of water, wastewater, or solid waste.

(ii) "Conservation" does not include thermal or electric energy production from cogeneration.

~~(2) "Energy equipment and services" means ((energy management systems and any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies));~~

(a) Energy management systems and any equipment, materials, supplies, or conservation projects that are expected, upon installation, to reduce the energy use, reduce the energy demand, reduce the energy cost, or reduce the greenhouse gas emissions, of a facility; and

(b) The services associated with the equipment, materials, supplies, or conservation projects including, but not limited to, design, engineering, financing, installation, project management, guarantees, operations, and maintenance. Reduction in energy use or energy cost may also include reductions in the use or cost of water, wastewater, or solid waste.



~~((2))~~ (3) "Energy management system" has the definition provided in RCW 39.35.030.

~~((3))~~ (4) "Facility" includes a building, structure, group of buildings or structures at a single site, site improvement, or other facility owned by a municipality.

(5) "Municipality" has the definition provided in RCW 39.04.010.

~~((4))~~ (6) "Performance-based contract" means one or more contracts for water conservation services, solid waste reduction services, or energy equipment and services between a municipality and any other persons or entities, if the payment obligation for each year under the contract, including the year of installation, is either: (a) Set as a percentage of the annual energy cost savings, water cost savings, ~~((€))~~ solid waste cost savings, or benefits achieved through conservation projects attributable under the contract; or (b) guaranteed by the other persons or entities to be less than the annual energy cost savings, water cost savings, ~~((€))~~ solid waste cost savings, or other benefits attributable under the contract. Such guarantee shall be, at the option of the municipality, a bond or insurance policy, or some other guarantee determined sufficient by the municipality to provide a level of assurance similar to the level provided by a bond or insurance policy.

~~((5) "Water conservation" means reductions in the use of water or wastewater.)~~

**Sec. 3.** RCW 39.35C.020 and 2001 c 214 s 21 are each amended to read as follows:

(1) Each state agency and school district shall implement cost-effective conservation improvements and maintain efficient operation of its facilities in order to minimize energy consumption and related environmental impacts and reduce operating costs. Each state agency shall undertake an energy audit and implement cost-effective conservation measures pursuant to the time schedules and requirements set forth in chapter 43.19 RCW, except that any state agency that, after December 31, 1997, has completed energy audits and implemented cost-effective conservation measures, or has contracted with an energy service company for energy audits and conservation measures, is deemed to have met the requirements of this subsection for those facilities included in the audits and conservation measures. Each school district shall undertake an energy audit and implement cost-effective conservation measures pursuant to the time schedules and requirements set forth in RCW 39.35C.025. Performance-based contracting shall be the preferred method for completing energy audits and implementing cost-effective conservation measures.

(2) The department shall assist state agencies and school districts in identifying, evaluating, and implementing cost-effective conservation projects at their facilities. The department, in consultation with affected public agencies, shall develop and issue guidelines for cost-effectiveness determination. The purpose of the guidelines is to define a procedure and method for performance of cost-effectiveness. The department's assistance to state agencies and school districts shall include the following:

(a) Notifying state agencies and school districts of their responsibilities under this chapter;

(b) Apprising state agencies and school districts of opportunities to develop and finance such projects;

(c) Providing technical and analytical support, including procurement of performance-based contracting services;

(d) Reviewing verification procedures for energy savings; and

(e) Assisting in the structuring and arranging of financing for cost-effective conservation projects.

(3) Conservation projects implemented under this chapter shall have appropriate levels of monitoring to verify the performance and measure the energy savings over the life of the project. The department shall solicit involvement in program planning and implementation from utilities and other energy conservation suppliers, especially those that have demonstrated experience in performance-based energy programs.

(4) The department shall comply with the requirements of chapter 39.80 RCW when contracting for architectural or engineering services.

(5) The department shall recover any costs and expenses it incurs in providing assistance pursuant to this section, including reimbursement from third parties participating in conservation projects. The department shall enter into a written agreement with the public agency for the recovery of costs.

NEW SECTION. **Sec. 4.** A new section is added to chapter 39.35C RCW to read as follows:

For purposes of this chapter:

(1) Conservation may be achieved through the deployment of distributed energy resources; and

(2) Distributed energy resources include, but are not limited to, energy efficiency projects that are not cogeneration projects, energy storage, demand response, electric vehicle charging infrastructure, and grid-interactive efficient buildings.

NEW SECTION. **Sec. 5.** A new section is added to chapter 39.35A RCW to read as follows:

For purposes of this chapter:

(1) Conservation may be achieved through the deployment of distributed energy resources; and

(2) Distributed energy resources include, but are not limited to, energy efficiency projects that are not cogeneration projects, energy storage, demand response, electric vehicle charging infrastructure, and grid-interactive efficient buildings.

Passed by the House February 10, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

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**CHAPTER 129**

[Substitute House Bill 1779]

**SURGICAL SMOKE—SMOKE EVACUATION SYSTEMS**

AN ACT Relating to requiring policies addressing surgical smoke; adding a new section to chapter 49.17 RCW; creating a new section; and providing effective dates.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 49.17 RCW to read as follows:

(1) A health care employer shall adopt policies that require the use of a smoke evacuation system during any planned surgical procedure that is likely to generate surgical smoke which would otherwise make contact with the eyes or respiratory tract of the occupants of the room.

(2) The health care employer may select any smoke evacuation system that accounts for surgical techniques and procedures vital to patient safety and that takes into account employee safety.

(3) The department shall ensure compliance with this section during any on-site inspection.

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

(a) "Energy generating device" means a tool that performs a surgical function using heat, laser, electricity, or other form of energy.

(b) "Health care employer" means a hospital, as defined in RCW 70.41.020, or an ambulatory surgical facility, as defined in RCW 70.230.010.

(c) "Smoke evacuation system" means equipment designed to capture and neutralize surgical smoke at the point of origin, before the smoke makes contact with the eyes or the respiratory tract of occupants in the room. Smoke evacuation systems may be integrated with the energy generating device or separate from the energy generating device.

(d) "Surgical smoke" means the by-product that results from contact with tissue by an energy generating device.

(5) The department may adopt rules as necessary to administer this section.

**NEW SECTION. Sec. 2.** This act takes effect January 1, 2024, except that for the following hospitals, this act takes effect January 1, 2025:

(1) Hospitals certified as critical access hospitals under 42 U.S.C. Sec. 1395i-4;

(2) Hospitals with fewer than 25 acute care beds in operation;

(3) Hospitals certified by the centers for medicare and medicaid services as sole community hospitals; and

(4) Hospitals that qualify as a medicare dependent hospital.

**NEW SECTION. Sec. 3.** (1) The surgical smoke evacuation account is created in the custody of the state treasurer. Revenues to the account consist of appropriations and transfers by the legislature and all other funding directed for deposit into the account. Only the director of the department of labor and industries or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used only for purposes provided in subsection (3) of this section.

(2) By July 1, 2025, the director of the department of labor and industries must certify to the state treasurer the amount of any unobligated moneys in the surgical smoke evacuation account that were appropriated by the legislature from the general fund during the 2023-2025 fiscal biennium, and the treasurer must transfer those moneys back to the general fund.

(3)(a) Subject to the funds available in the surgical smoke evacuation account and beginning January 2, 2025, a hospital described in (b) of this subsection may apply to the department of labor and industries for reimbursement for the costs incurred by the hospital on or before January 1, 2025, to purchase and install smoke evacuation systems as defined in section 1 of this act. The reimbursement may not exceed \$1,000 for each operating room in the hospital. The reimbursements under this subsection are only available until moneys contained in the account are exhausted.

(b) Only the following hospitals may apply for reimbursement:

(i) Hospitals certified as critical access hospitals under 42 U.S.C. Sec. 1395i-4;

(ii) Hospitals with fewer than 25 acute care beds in operation;

(iii) Hospitals certified by the centers for medicare and medicaid services as sole community hospitals; and

(iv) Hospitals that qualify as a medicare dependent hospital.

(c) The department of labor and industries must determine the process for making an application for reimbursement.

Passed by the House March 7, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 130

[Engrossed House Bill 1784]

### VEHICLE LICENSE PLATE VISIBILITY—CARGO CARRYING DEVICES

AN ACT Relating to establishing an exception to the requirement that vehicle license plates be visible at all times for vehicles using certain cargo carrying devices; and reenacting and amending RCW 46.16A.200.

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

**Sec. 1.** RCW 46.16A.200 and 2014 c 181 s 2 and 2014 c 80 s 1 are each reenacted and 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 clean 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 holders, frames, or other materials that change, alter, or make a license plate or plates illegible. 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. 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 pounds.

(11) **Rules.** The department may adopt rules to implement this section.

(12) **Tags or emblems.** The director may issue tags or emblems to be attached to license plates or elsewhere on the vehicle to signify initial registration and renewals. Renewals become effective when tags or emblems have been issued and properly displayed.

Passed by the House February 15, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 131

[House Bill 1785]

## WASHINGTON STATE PATROL—SALARIES

AN ACT Relating to the minimum monthly salary paid to Washington state patrol troopers and sergeants; and amending RCW 43.43.380 and 41.56.475.

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

**Sec. 1.** RCW 43.43.380 and 2018 c 140 s 1 are each amended to read as follows:

(1)(a) The minimum monthly salary paid to state patrol troopers and sergeants must be competitive with law enforcement agencies within the boundaries of the state of Washington, guided by the results of a survey undertaken in the collective bargaining process during each biennium. ~~((The salary levels must be guided by the average of compensation paid to the corresponding rank from the Seattle police department, King county sheriff's office, Tacoma police department, Snohomish county sheriff's office, Spokane police department, and Vancouver police department.))~~ Compensation must be calculated using base salary, premium pay (a pay received by more than a majority of employees), education pay, and longevity pay. The compensation comparison data is based on the Washington state patrol and the law enforcement agencies listed in this section. ~~Increases ((m)) for sergeants will be extended to the salary levels for captains and lieutenants ((that are collectively bargained must be proportionate to the))~~ through the collective bargaining process to ensure proportionality of increases ((in salaries for troopers and sergeants as a result of the survey described in this section)).

(b)(i) Until July 1, 2028, the comparisons for determining competitiveness with other law enforcement agency salary levels must be guided by the average of compensation paid to the corresponding rank from the Seattle police department, King county sheriff's office, Tacoma police department, Snohomish county sheriff's office, Spokane police department, and Vancouver police department.

(ii) Beginning July 1, 2028, the comparisons for determining competitiveness with other law enforcement agency salary levels must be guided by the average of compensation paid to the corresponding rank from the Seattle police department, King county sheriff's office, Tacoma police department, Snohomish county sheriff's office, Spokane police department, and Vancouver police department, unless the office of financial management determines that one or more agencies should be replaced in this comparison with another law enforcement agency pursuant to the periodic evaluation process specified in (b)(iii) of this subsection.

(iii) By January 1, 2028, and each decade thereafter, the office of financial management must conduct an evaluation of the six agencies that are relevant for comparison to ensure state patrol troopers and sergeant salary levels are competitive with other law enforcement agencies within the boundaries of the state of Washington. If the office of financial management determines that one or more agencies specified in (b)(ii) of this subsection should be replaced in this comparison with a different law enforcement agency that is more relevant to ensure salary competitiveness, the office of financial management may utilize



that revised compensation comparison data in the survey undertaken in the collective bargaining process during each biennium.

(2) By December 1, 2024, as part of the salary survey required in this section, the office of financial management must report to the governor and transportation committees of the legislature on the efficacy of Washington state patrol recruitment and retention efforts. Using the results of the 2016 salary survey as the baseline data, the report must include an analysis of voluntary resignations of state patrol troopers and sergeants and a comparison of state patrol academy class sizes and trooper graduations.

~~((3) This section expires June 30, 2025.)~~

**Sec. 2.** RCW 41.56.475 and 2008 c 149 s 1 are each amended to read as follows:

In addition to the classes of employees listed in RCW 41.56.030~~((7))~~ (14), the provisions of RCW 41.56.430 through 41.56.452 and 41.56.470, 41.56.480, and 41.56.490 also apply to Washington state patrol officers appointed under RCW 43.43.020 as provided in this section, subject to the following:

(1) Within ~~((ten))~~ 10 working days after the first Monday in September of every odd-numbered year, the state's bargaining representative and the bargaining representative for the appropriate bargaining unit shall attempt to agree on an interest arbitration panel consisting of three members to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. Each party shall name one person to serve as its arbitrator on the arbitration panel. The two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chair of the arbitration panel. Upon the failure of the arbitrators to select a neutral chair within seven days, the two appointed members shall use one of the two following options in the appointment of the third member, who shall act as chair of the panel: (a) By mutual consent, the two appointed members may jointly request the commission to, and the commission shall, appoint a third member within two days of such a request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the commission; or (b) either party may apply to the commission, the federal mediation and conciliation service, or the American arbitration association to provide a list of five qualified arbitrators from which the neutral chair shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chair shall be shared equally between the parties. Immediately upon selecting an interest arbitration panel, the parties shall cooperate to reserve dates with the arbitration panel for potential arbitration between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the names of the members of the arbitration panel and the dates reserved for bargaining and arbitration. This subsection imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(2) The mediator or arbitration panel may consider only matters that are subject to bargaining under RCW 41.56.473.

(3) The decision of an arbitration panel is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to wages and wage-related matters of an arbitrated collective bargaining agreement, is not binding on the state or the Washington state patrol.

(4) In making its determination, the arbitration panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

(c) Comparison of the hours and conditions of employment of personnel involved in the proceedings with the hours and conditions of employment of ~~((like personnel of))~~ like employers of similar size ~~((on the west coast of the United States))~~ identified in RCW 43.43.380;

(d) Changes in any of the foregoing circumstances during the pendency of the proceedings; and

(e) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under RCW 41.56.473.

Passed by the House March 8, 2022.

Passed by the Senate March 1, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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### CHAPTER 132

[Substitute House Bill 1790]

#### TEMPORARY LICENSE PLATES—CREATION, DISPLAY, MATERIAL DURABILITY

AN ACT Relating to the creation, display, and material durability of temporary license plates; amending RCW 46.16A.300, 46.17.400, and 46.68.450; reenacting and amending RCW 46.16A.305; adding new sections to chapter 46.04 RCW; 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 46.04 RCW to read as follows:

"License plate" means a plate that may be issued to a vehicle owner by the department or by an authorized entity for vehicle licensing or identification purposes. "License plates" do not include: (1) Temporary license plates; or (2) metal tags issued for the purposes of licensing wheeled all-terrain vehicles.

**NEW SECTION. Sec. 2.** A new section is added to chapter 46.04 RCW to read as follows:

"Temporary license plate" means a plate or placard that may be issued to a vehicle owner by the department or by an authorized entity for the purposes of temporary vehicle licensing.

**NEW SECTION. Sec. 3.** A new section is added to chapter 46.04 RCW to read as follows:

"Temporary operating authority" means a paper or electronic credential issued under chapter 46.87 RCW that conforms with the international

registration plan requirements for temporary evidence of apportioned registration.

**Sec. 4.** RCW 46.16A.300 and 2010 c 161 s 415 are each amended to read as follows:

(1) The department may authorize vehicle dealers properly licensed under chapters 46.09, 46.10, and 46.70 RCW to issue temporary ~~((permits))~~ license plates as described in RCW 46.16A.305 to operate vehicles under rules adopted by the department.

(2) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under RCW 46.17.400(1)(a) for each temporary ~~((permit))~~ license plate application sold to an authorized vehicle dealer.

(3) The payment of vehicle license fees to an authorized dealer is considered payment to the state of Washington.

(4) The department shall provide access to a secure system that allows temporary ~~((permits))~~ license plates issued by vehicle dealers properly licensed under chapters 46.09, 46.10, and 46.70 RCW to be generated and printed on demand. By July 1, ~~((2011))~~ 2023, all such ~~((permits))~~ plates must be generated using the designated system.

**Sec. 5.** RCW 46.16A.305 and 2010 c 161 s 416 and 2010 c 8 s 9011 are each reenacted and amended to read as follows:

(1) The department, county auditor or other agent, or subagent appointed by the director may grant a temporary ~~((permit))~~ license plate to operate a vehicle for which an application for registration has been made. The application for a temporary ~~((permit))~~ license plate must be made by the owner or the owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished by the department and must contain:

(a) A full description of the vehicle, including its make, model, vehicle identification number, and type of body;

(b) The name and address of the applicant;

(c) The date of application; and

(d) Other information that the department may require.

(2) Temporary ~~((permits))~~ license plates must:

(a) Be consecutively numbered;

(b) Be displayed ~~((where it is visible from outside of the vehicle, such as on the inside left side of the rear window))~~ as described for permanent license plates in RCW 46.16A.200(5)(a); ((and))

(c) Be composed of material that must be durable and remain unaltered in field conditions for a minimum of four months; and

(d) Remain on the vehicle only until the receipt of permanent license plates.

(3) The application must be accompanied by the fee required under RCW 46.17.400(1)(b).

(4) Pursuant to subsection (2) of this section, the department may adopt rules for the design and display of temporary license plates.

**Sec. 6.** RCW 46.17.400 and 2011 c 171 s 62 are each amended to read as follows:

(1) Before accepting an application for one of the following permits or temporary license plates, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay the following permit or temporary license plate fee by permit or license type in addition to any other fee or tax required by law:

PERMIT OR LICENSE TYPE	FEE	AUTHORITY	DISTRIBUTION
(a) Dealer temporary license plate	\$ 15.00	RCW 46.16A.300	RCW 46.68.030
(b) Department temporary license plate	\$ .50	RCW 46.16A.305	RCW 46.68.450
(c) Farm vehicle trip	\$ 6.25	RCW 46.16A.330	RCW 46.68.035
(d) Nonresident military	\$ 10.00	RCW 46.16A.340	RCW 46.68.070
(e) Nonresident temporary snowmobile	\$ 5.00	RCW 46.10.450	RCW 46.68.350
(f) Special fuel trip	\$ 30.00	RCW 82.38.100	RCW 46.68.460
(g) Temporary ORV use	\$ 7.00	RCW 46.09.430	RCW 46.68.045
(h) Vehicle trip	\$ 25.00	RCW 46.16A.320	RCW 46.68.455

(2) Permit or temporary license plate fees as provided in subsection (1) of this section are in addition to the filing fee required under RCW 46.17.005, except an additional filing fee may not be charged for:

- (a) Dealer temporary (~~(permits)~~) license plates;
- (b) Special fuel trip permits; and
- (c) Vehicle trip permits.

(3) Five dollars of the fifteen dollar dealer temporary (~~(permit)~~) license plate fee provided in subsection (1)(a) of this section must be credited to the payment of vehicle license fees at the time application for registration is made. The remainder must be deposited to the state patrol highway account created in RCW 46.68.030.

**Sec. 7.** RCW 46.68.450 and 2010 c 161 s 814 are each amended to read as follows:

The department temporary (~~(permit)~~) license plate fee imposed under RCW 46.17.400(1)(b) must be distributed as follows:

- (1) If collected by the department, the fee must be distributed under RCW 46.68.030; and
- (2) If collected by the county auditor or other agent or subagent, the fee must be distributed to the county current expense fund.

**NEW SECTION. Sec. 8.** This act takes effect July 1, 2023.

Passed by the House February 23, 2022.

Passed by the Senate March 4, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 133

[Engrossed Substitute House Bill 1795]

EMPLOYERS—NONDISCLOSURE AND NONDISPARAGEMENT AGREEMENTS—  
CERTAIN ILLEGAL ACTS

AN ACT Relating to prohibiting nondisclosure and nondisparagement provisions from employers regarding illegal acts of discrimination, harassment, retaliation, wage and hour violations, and sexual assault; adding a new section to chapter 49.44 RCW; creating new sections; repealing RCW 49.44.210; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** The legislature recognizes that there exists a strong public policy in favor of the disclosure of illegal discrimination, illegal harassment, illegal retaliation, wage and hour violations, and sexual assault, that is recognized as illegal under Washington state, federal, or common law, or that is recognized as against a clear mandate of public policy, that occurs at the workplace, at work-related events coordinated by or through the employer, between employees, or between an employer and an employee, whether on or off the employment premises. Nondisclosure and nondisparagement provisions in agreements between employers and current, former, prospective employees, and independent contractors have become routine and perpetuate illegal conduct by silencing those who are victims or who have knowledge of illegal discrimination, illegal harassment, illegal retaliation, wage and hour violations, or sexual assault. It is the intent of the legislature to prohibit nondisclosure and nondisparagement provisions in agreements, which defeat the strong public policy in favor of disclosure.

**NEW SECTION. Sec. 2.** A new section is added to chapter 49.44 RCW to read as follows:

(1) A provision in an agreement by an employer and an employee not to disclose or discuss conduct, or the existence of a settlement involving conduct, that the employee reasonably believed under Washington state, federal, or common law to be illegal discrimination, illegal harassment, illegal retaliation, a wage and hour violation, or sexual assault, or that is recognized as against a clear mandate of public policy, is void and unenforceable. Prohibited nondisclosure and nondisparagement provisions in agreements concern conduct that occurs at the workplace, at work-related events coordinated by or through the employer, between employees, or between an employer and an employee, whether on or off the employment premises. Prohibited nondisclosure and nondisparagement provisions include those contained in employment agreements, independent contractor agreements, agreements to pay compensation in exchange for the release of a legal claim, or any other agreement between an employer and an employee.

(2) This section does not prohibit the enforcement of a provision in any agreement that prohibits the disclosure of the amount paid in settlement of a claim.

(3) It is a violation of this section for an employer to discharge or otherwise discriminate or retaliate against an employee for disclosing or discussing conduct that the employee reasonably believed to be illegal harassment, illegal discrimination, illegal retaliation, wage and hour violations, or sexual assault, that is recognized as illegal under state, federal, or common law, or that is

recognized as against a clear mandate of public policy, occurring in the workplace, at work-related events coordinated by or through the employer, between employees, or between an employer and an employee, whether on or off the employment premises.

(4) It is a violation of this section for an employer to request or require that an employee enter into any agreement provision that is prohibited by this section.

(5) It is a violation of this section for an employer to attempt to enforce a provision of an agreement prohibited by this section, whether through a lawsuit, a threat to enforce, or any other attempt to influence a party to comply with a provision in any agreement that is prohibited by this section.

(6) This section does not prohibit an employer and an employee from protecting trade secrets, proprietary information, or confidential information that does not involve illegal acts.

(7) An employer who violates this section after the effective date of this section is liable in a civil cause of action for actual or statutory damages of \$10,000, whichever is more, as well as reasonable attorneys' fees and costs.

(8) For the purposes of this section, "employee" means a current, former, or prospective employee or independent contractor.

(9) A nondisclosure or nondisparagement provision in any agreement signed by an employee who is a Washington resident is governed by Washington law.

(10) The provisions of this section are to be liberally construed to fulfill its remedial purpose.

(11) As an exercise of the state's police powers and for remedial purposes, this section is retroactive from the effective date of this section only to invalidate nondisclosure or nondisparagement provisions in agreements created before the effective date of this section and which were agreed to at the outset of employment or during the course of employment. This subsection allows the recovery of damages only to prevent the enforcement of those provisions. This subsection does not apply to a nondisclosure or nondisparagement provision contained in an agreement to settle a legal claim.

**NEW SECTION. Sec. 3.** The repeal in section 4 of this act does not affect any existing right acquired or liability or obligation incurred under the statute repealed in this act or under any rule or order adopted under that statute, nor does it affect any proceeding instituted under that statute.

**NEW SECTION. Sec. 4.** RCW 49.44.210 (Nondisclosure agreements that prevent disclosure of sexual assault or sexual harassment prohibited—Settlement agreement exception) and 2018 c 117 s 1 are each repealed.

Passed by the House February 9, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 134

[Substitute House Bill 1800]

## BEHAVIORAL HEALTH SERVICES—MINORS—VARIOUS PROVISIONS

AN ACT Relating to increasing access to behavioral health services for minors; amending RCW 71.34.3871, 71.40.040, and 71.40.090; adding new sections to chapter 71.34 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 71.34 RCW to read as follows:

The authority shall dedicate at least one full-time employee to:

- (1) Connecting families, behavioral health providers, educators, and other stakeholders with current information about law and policy related to behavioral health services for minors;
- (2) Creating shareable content appropriate for communicating policy and resources related to behavioral health services for minors;
- (3) Designing and maintaining a communications plan related to behavioral health services for minors involving social media and other forms of direct outreach to providers, families, and youth; and
- (4) Monitoring the health care authority website to make sure that the information included on the website is accurate and designed in a manner that is accessible to families.

**NEW SECTION. Sec. 2.** A new section is added to chapter 71.34 RCW to read as follows:

(1) The authority shall convene stakeholders to design, further define, and implement a parent portal. The authority shall work with stakeholders including Washington state community connectors and consider the website prototype already under development by that organization. The stakeholders convened must additionally include other parents and young adults with relevant lived experience.

(2) As used in this section, "parent portal" means a method for connecting families to their community's service and education infrastructure related to behavioral health services for minors, including services supported or provided by:

- (a) A behavioral health provider as defined in RCW 71.24.025 that provides services to minors;
  - (b) A licensed or certified behavioral health agency as defined in RCW 71.24.025 that provides behavioral health services to minors;
  - (c) A long-term care facility as defined in RCW 43.190.020 in which minors with behavioral health conditions reside;
  - (d) The child study and treatment center as identified in RCW 71.34.380;
  - (e) A facility or agency that receives state funding to provide behavioral health treatment services to minors with a behavioral health condition;
  - (f) The department of children, youth, and families;
  - (g) The office of the superintendent of public instruction; and
  - (h) The department.
- (3) By November 1, 2022, the authority shall provide a report to the governor and the appropriate committees of the legislature detailing:
- (a) The stakeholder engagement conducted under this section;

- (b) The design and further definition of the parent portal; and
- (c) Other relevant information about successfully implementing the parent portal, including needed legislative changes or support.

**Sec. 3.** RCW 71.34.3871 and 2019 c 381 s 24 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the authority must conduct ~~((an annual survey of a sample group of))~~ stakeholder engagement efforts with parents, youth, and behavioral health providers to measure the impacts of implementing policies resulting from chapter 381, Laws of 2019 during the first three years of implementation and sections 1 and 2 of this act. The stakeholder engagement efforts required under this subsection must include live events soliciting feedback from stakeholders and alternative methods for stakeholders to submit feedback. The first ~~((survey))~~ stakeholder engagement efforts must be complete by ~~((July 1, 2020))~~ October 1, 2022, followed by subsequent annual ~~((surveys))~~ stakeholder engagement efforts completed by July 1, ~~((2021))~~ 2023, and by July 1, ~~((2022))~~ 2024. The authority must report on the results of the ~~((surveys))~~ stakeholder engagement efforts annually to the governor and the legislature beginning November 1, ~~((2020))~~ 2022. The final report is due November 1, ~~((2022))~~ 2024, and must include any recommendations for statutory changes identified as needed based on ~~((survey))~~ stakeholder engagement efforts results.

(2) This section expires December 31, ~~((2022))~~ 2024.

**Sec. 4.** RCW 71.40.040 and 2021 c 202 s 4 are each amended to read as follows:

The state office of behavioral health consumer advocacy shall assure performance of the following activities, as authorized in contract:

(1) Selection of a name for the contracting advocacy organization to use for the advocacy program that it operates pursuant to contract with the office. The name must be selected by the statewide advisory council established in this section and must be separate and distinguishable from that of the office;

(2) Certification of behavioral health consumer advocates by October 1, 2022, and coordination of the activities of the behavioral health consumer advocates throughout the state according to standards adopted by the office;

(3) Provision of training regarding appropriate access by behavioral health consumer advocates to behavioral health providers or facilities according to standards adopted by the office;

(4) Establishment of a toll-free telephone number, website, and other appropriate technology to facilitate access to contracting advocacy organization services for patients, residents, and clients of behavioral health providers or facilities;

(5) Establishment of a statewide uniform reporting system to collect and analyze data relating to complaints and conditions provided by behavioral health providers or facilities for the purpose of identifying and resolving significant problems, with permission to submit the data to all appropriate state agencies on a regular basis;

(6) Establishment of procedures consistent with the standards adopted by the office to protect the confidentiality of the office's records, including the records of patients, residents, clients, providers, and complainants;



(7) Establishment of a statewide advisory council, a majority of which must be composed of people with lived experience, that shall include:

(a) Individuals with a history of mental illness including one or more members from the black community, the indigenous community, or a community of color;

(b) Individuals with a history of substance use disorder including one or more members from the black community, the indigenous community, or a community of color;

(c) Family members of individuals with behavioral health needs including one or more members from the black community, the indigenous community, or a community of color;

(d) One or more representatives of an organization representing consumers of behavioral health services;

(e) Representatives of behavioral health providers and facilities, including representatives of facilities offering inpatient and residential behavioral health services;

(f) One or more certified peer specialists;

(g) One or more medical clinicians serving individuals with behavioral health needs;

(h) One or more nonmedical providers serving individuals with behavioral health needs;

(i) One representative from a behavioral health administrative services organization;

(j) Two parents or caregivers of a child who received behavioral health services, including one parent or caregiver of a child who received complex, multisystem behavioral health services, one parent or caregiver of a child ages one through 12, or one parent or caregiver of a child ages 13 through 17;

(k) Two representatives of medicaid managed care organizations, one of which must provide managed care to children and youth receiving child welfare services;

(l) Other community representatives, as determined by the office; and

~~((k))~~ (m) One representative from a labor union representing workers who work in settings serving individuals with behavioral health conditions;

(8) Monitoring the development of and recommend improvements in the implementation of federal, state, and local laws, rules, regulations, and policies with respect to the provision of behavioral health services in the state and advocate for consumers;

(9) Development and delivery of educational programs and information statewide to patients, residents, and clients of behavioral health providers or facilities, and their families on topics including, but not limited to, the execution of mental health advance directives, wellness recovery action plans, crisis services and contacts, peer services and supports, family advocacy and rights, family-initiated treatment and other behavioral health service options for minors, and involuntary treatment; and

(10) Reporting to the office, the legislature, and all appropriate public agencies regarding the quality of services, complaints, problems for individuals receiving services from behavioral health providers or facilities, and any recommendations for improved services for behavioral health consumers.

**Sec. 5.** RCW 71.40.090 and 2021 c 202 s 9 are each amended to read as follows:

The contracting advocacy organization shall develop and submit, for approval by the office, a process to train and certify all behavioral health consumer advocates, whether paid or volunteer, authorized by this chapter as follows:

(1) Certified behavioral health consumer advocates must have training or experience in the following areas:

(a) Behavioral health and other related social services programs, including behavioral health services for minors;

(b) The legal system, including differences in state or federal law between voluntary and involuntary patients, residents, or clients;

(c) Advocacy and supporting self-advocacy;

(d) Dispute or problem resolution techniques, including investigation, mediation, and negotiation; and

(e) All applicable patient, resident, and client rights established by either state or federal law.

(2) A certified behavioral health consumer advocate may not have been employed by any behavioral health provider or facility within the previous twelve months, except as a certified peer specialist or where prior to July 25, 2021, the person has been employed by a regional behavioral health consumer advocate.

(3) No certified behavioral health consumer advocate or any member of a certified behavioral health consumer advocate's family may have, or have had, within the previous twelve months, any significant ownership or financial interest in the provision of behavioral health services.

Passed by the House March 8, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 135

[House Bill 1859]

### CANNABIS ANALYSIS—LABORATORY QUALITY STANDARDS

AN ACT Relating to quality standards for laboratories conducting cannabis analysis; amending RCW 69.50.348 and 69.50.348; adding a new chapter to Title 15 RCW; 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.** The purpose of this act is to create an interagency coordination team responsible for the program that establishes and maintains quality standards for laboratories conducting analysis of recreational and medicinal cannabis with THC levels greater than 0.3 percent. The interagency team includes the department of agriculture, the liquor and cannabis board, and the department of health. The standards must be adopted by rule by the department of agriculture, and changes to standards may require reference in liquor and cannabis board and department of health rules. This authority to establish these rules transfers from the liquor and cannabis board to the

department of agriculture. This act implements the recommendations of the cannabis science task force established in RCW 43.21A.735.

According to the task force's recommendations: "Laboratory quality standards are the elements used in the evaluation of a product's compliance with established product standards. They consist of approved methods, method validation protocols, and performance measures and criteria applied to the testing of the product. Establishing appropriate and well-defined laboratory quality standards is essential to communicate to the testing laboratories what standardized practices and procedures are appropriate.

Laboratory quality standards help ensure the data that laboratories generate are credible and can be used to provide consumer protections. They should represent sound scientific protocols, and detail practical and specific guidance for the testing subject matter. Together, well-established product standards, laboratory quality standards, and accreditation standards should function to garner confidence for consumers and the industry they support."

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

(1) "Cannabis lab" means a laboratory that tests cannabis for compliance with product standards established by rule by the state liquor and cannabis board.

(2) "Team" means the interagency coordination team for cannabis laboratory quality standards created in this chapter.

**NEW SECTION. Sec. 3.** (1) The interagency coordination team for cannabis laboratory quality standards is created. The team consists of the department, the liquor and cannabis board, and the department of health. The department is designated lead agency for the team and must provide the team with all necessary administrative support.

(2) The agencies that make up the team must each dedicate administrative, policy, scientific, or other staff necessary to successfully accomplish the duties assigned to the team.

(3) The team must:

(a) Coordinate among all participating agencies on agency policies, actions, and regulatory activities that relate to cannabis testing laboratory quality standards; and

(b) Advise the department on implementation and maintenance of cannabis testing laboratory quality standards topics including, but not limited to, analytical methods, validation protocols, quality assurance and quality control practices, project planning and sampling guides, and other topics as necessary to fulfill the purposes of the team and this act. In making its recommendations, the team must take into account the cannabis science task force recommendations.

**NEW SECTION. Sec. 4.** (1) The department must establish and maintain cannabis testing laboratory quality standards by rule in accordance with chapter 34.05 RCW.

(2) Cannabis testing laboratory quality standards must include, but are not limited to, approved methods for testing cannabis for compliance with product standards established by rule by the state liquor and cannabis board or the department of health, method validation protocol, and performance measures and criteria applied to testing of cannabis products.

(3) The department must take into account the recommendations of the team created in section 3 of this act.

(4) Standards created under this chapter must be provided to the state department of ecology for use in the lab accreditation process described in RCW 69.50.348.

**Sec. 5.** RCW 69.50.348 and 2019 c 277 s 1 are each amended to read as follows:

(1) On a schedule determined by the state liquor and cannabis board, every licensed marijuana producer and processor must submit representative samples of marijuana, useable marijuana, or marijuana-infused products produced or processed by the licensee to an independent, third-party testing laboratory ~~((meeting the accreditation requirements established by the state liquor and cannabis board, for inspection and testing)).~~ The purpose of testing representative samples is to certify compliance with quality assurance and product standards adopted by the state liquor and cannabis 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.--- RCW (the new chapter created in section 9 of this act). 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 subsection (1) of this section to the state liquor and cannabis board on a form developed by the state liquor and cannabis board.

~~((3))~~ (4) If a representative sample inspected and tested under this section does not meet the applicable quality assurance and product standards established by the state liquor and cannabis board, the entire lot from which the sample was taken must be destroyed.

~~((4))~~ (5) The state liquor and cannabis board may adopt rules necessary to implement this section. The state liquor and cannabis board may adopt rules necessary to implement subsection (2) of this section until a successor state agency or agencies assume responsibility for establishing and administering laboratory standards and accreditation.

**Sec. 6.** RCW 69.50.348 and 2019 c 277 s 2 are each amended to read as follows:

(1) On a schedule determined by the state liquor and cannabis board, every licensed marijuana producer and processor must submit representative samples of marijuana, useable marijuana, or marijuana-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 ~~((, for inspection and testing)).~~ The purpose of testing representative samples is to certify compliance with quality assurance and product standards adopted by the state liquor and cannabis 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.--- RCW (the new chapter created in section 9 of this act). 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 state liquor and cannabis board on a form developed by the state liquor and cannabis board.

~~((3))~~ (4) If a representative sample inspected and tested under this section does not meet the applicable quality assurance and product standards established by the state liquor and cannabis board, the entire lot from which the sample was taken must be destroyed.

~~((4))~~ (5)(a) The department of ecology may determine, assess, and collect annual fees sufficient to cover the direct and indirect costs of implementing a state marijuana product testing laboratory accreditation 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 marijuana product testing laboratories. The department of ecology 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 must review and update its fee schedule biennially. The costs of marijuana product testing laboratory accreditation are those incurred by the department of ecology 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) Evaluating the protocols and procedures used by a laboratory;
- (ii) Performing on-site audits;
- (iii) Evaluating participation and successful completion of proficiency testing;
- (iv) Determining the capability of a laboratory to produce accurate and reliable test results; and
- (v) Such other accreditation activities as the department of ecology deems appropriate.

(b) The state marijuana product testing laboratory accreditation program initial development costs must be fully paid from the dedicated marijuana account created in RCW 69.50.530.

~~((5))~~ (6) The department of ecology and the ~~((liquor and cannabis board))~~ interagency coordination team created in section 3 of this act must act cooperatively to ensure effective implementation and administration of this section.

~~((6))~~ (7) All fees collected under this section must be deposited in the dedicated marijuana account created in RCW 69.50.530.

NEW SECTION. Sec. 7. Section 5 of this act expires July 1, 2024.

NEW SECTION. **Sec. 8.** Section 6 of this act takes effect July 1, 2024.

NEW SECTION. **Sec. 9.** Sections 2 through 4 of this act constitute a new chapter in Title 15 RCW.

Passed by the House March 8, 2022.

Passed by the Senate March 4, 2022.

Approved by the Governor March 24, 2022.

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## CHAPTER 136

[Substitute House Bill 1893]

### EMERGENCY MEDICAL TECHNICIANS—COLLABORATIVE MEDICAL CARE—PUBLIC HEALTH AGENCIES

AN ACT Relating to allowing emergency medical technicians to provide medical evaluation, testing, and vaccines outside of an emergency in response to a public health agency request; amending RCW 18.73.030, 18.73.081, and 18.71.205; and adding a new section to chapter 18.71 RCW.

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

**Sec. 1.** RCW 18.73.030 and 2021 c 69 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) "Advanced life support" means invasive emergency medical services requiring advanced medical treatment skills as defined by chapter 18.71 RCW.

(2) "Aid service" means an organization that operates one or more aid vehicles.

(3) "Aid vehicle" means a vehicle used to carry aid equipment and individuals trained in first aid or emergency medical procedure.

(4) "Ambulance" means a ground or air vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.

(5) "Ambulance service" means an organization that operates one or more ambulances.

(6) "Basic life support" means noninvasive emergency medical services requiring basic medical treatment skills as defined in this chapter.

(7) "Collaborative medical care" means medical treatment and care provided pursuant to agreements with local, regional, or state public health agencies to control and prevent the spread of communicable diseases which is rendered separately from emergency medical service.

(8) "Communications system" means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an emergency medical services and trauma care system.

~~((8))~~ (9) "Council" means the local or regional emergency medical services and trauma care council as authorized under chapter 70.168 RCW.

~~((9))~~ (10) "Department" means the department of health.

~~((10))~~ (11) "Emergency medical service" means medical treatment and care which may be rendered at the scene of any medical emergency or while

transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

~~((11))~~ (12) "Emergency medical services medical program director" means a person who is an approved medical program director as defined by RCW 18.71.205(4).

~~((12))~~ (13) "Emergency medical technician" means a person who is authorized by the secretary to render emergency medical care pursuant to RCW 18.73.081 ~~((or))~~, under the responsible supervision and direction of an approved medical program director, ~~((to participate))~~ which may include participating in an emergency services supervisory organization or a community assistance referral and education services program established under RCW 35.21.930, or providing collaborative medical care if the participation or provision of collaborative medical care does not exceed the participant's training and certification.

~~((13))~~ (14) "Emergency services supervisory organization" means an entity that is authorized by the secretary to use certified emergency medical services personnel to provide medical evaluation or initial treatment, or both, to sick or injured people, while in the course of duties with the organization for on-site medical care prior to any necessary activation of emergency medical services. Emergency services supervisory organizations include law enforcement agencies, disaster management organizations, search and rescue operations, diversion centers, and businesses with organized industrial safety teams.

~~((14))~~ (15) "First responder" means a person who is authorized by the secretary to render emergency medical care as defined by RCW 18.73.081.

~~((15))~~ (16) "Patient care procedures" means written operating guidelines adopted by the regional emergency medical services and trauma care council, in consultation with the local emergency medical services and trauma care councils, emergency communication centers, and the emergency medical services medical program director, in accordance with statewide minimum standards. The patient care procedures shall identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility to first receive the patient, and the name and location of other trauma care facilities to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures in chapter 70.170 RCW.

~~((16))~~ (17) "Prehospital patient care protocols" means the written procedure adopted by the emergency medical services medical program director which direct the out-of-hospital emergency care of the emergency patient which includes the trauma care patient. These procedures shall be based upon the assessment of the patient's medical needs and what treatment will be provided for emergency conditions. The protocols shall meet or exceed statewide minimum standards developed by the department in rule as authorized in chapter 70.168 RCW.

~~((17))~~ (18) "Secretary" means the secretary of the department of health.

~~((18))~~ (19) "Stretcher" means a cart designed to serve as a litter for the transportation of a patient in a prone or supine position as is commonly used in the ambulance industry, such as wheeled stretchers, portable stretchers, stair chairs, solid backboards, scoop stretchers, basket stretchers, or flexible

stretchers. The term does not include personal mobility aids that recline at an angle or remain at a flat position, that are owned or leased for a period of at least one week by the individual using the equipment or the individual's guardian or representative, such as wheelchairs, personal gurneys, or banana carts.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.71 RCW to read as follows:

(1) Emergency medical services providers who are currently licensed or certified in another state or who hold a current certification from a national certifying agency approved by the department are eligible for a Washington provisional emergency services provider certification.

(2) To be eligible for a Washington provisional emergency services provider certification, the applicant shall:

(a) Be currently licensed or certified in another state and be in good standing with the emergency medical services board of that state or hold a current emergency medical services provider certification from a national certifying agency approved by the department;

(b) Be employed or have a valid employment offer from a Washington emergency medical services agency; and

(c) Be approved for a provisional status from the county medical program director in which the applicant is or will be employed.

(3) If the employer or host agency has:

(a) Fewer than 25 employees holding a current emergency medical technician or paramedic certification or license, up to 20 percent of those employees, rounded to the next whole number, may practice under a provisional certification; or

(b) Twenty-five or more employees holding a current emergency medical technician or paramedic certification or license, up to 10 percent of those employees, rounded to the next whole number, may practice under a provisional certification.

**Sec. 3.** RCW 18.73.081 and 1993 c 254 s 1 are each amended to read as follows:

In addition to other duties prescribed by law, the secretary shall:

(1) Prescribe minimum requirements for:

(a) Ambulance, air ambulance, and aid vehicles and equipment;

(b) Ambulance and aid services; and

(c) Minimum emergency communication equipment;

(2) Adopt procedures for services that fail to perform in accordance with minimum requirements;

(3) Prescribe minimum standards for first responder and emergency medical technician training including:

(a) Adoption of curriculum and period of certification;

(b) Procedures for provisional certification, certification, recertification, decertification, or modification of certificates;

(c) Adoption of requirements for ongoing training and evaluation, as approved by the county medical program director, to include appropriate evaluation for individual knowledge and skills. The first responder, emergency medical technician, or emergency medical services provider agency may elect a



program of continuing education and a written and practical examination instead of meeting the ongoing training and evaluation requirements;

(d) Procedures for reciprocity with other states or national certifying agencies;

(e) Review and approval or disapproval of training programs; and

(f) Adoption of standards for numbers and qualifications of instructional personnel required for first responder and emergency medical technician training programs;

(4) Prescribe minimum requirements for liability insurance to be carried by licensed services except that this requirement shall not apply to public bodies; and

(5) Certify emergency medical program directors.

**Sec. 4.** RCW 18.71.205 and 2015 c 93 s 3 are each amended to read as follows:

(1) The secretary of the department of health shall prescribe:

(a) Practice parameters, training standards for, and levels of, physician's trained advanced emergency medical technicians and paramedics;

(b) Minimum standards and performance requirements for the certification and recertification of physician's trained advanced emergency medical technicians and paramedics; and

(c) Procedures for provisional certification, certification, recertification, and decertification of physician's trained advanced emergency medical technicians and paramedics.

(2) Initial certification shall be for a period established by the secretary pursuant to RCW 43.70.250 and 43.70.280.

(3) Recertification shall be granted upon proof of continuing satisfactory performance and education, and shall be for a period established by the secretary pursuant to RCW 43.70.250 and 43.70.280.

(4) As used in this chapter and chapter 18.73 RCW, "approved medical program director" means a person who:

(a) Is licensed to practice medicine and surgery pursuant to this chapter or osteopathic medicine and surgery pursuant to chapter 18.57 RCW; and

(b) Is qualified and knowledgeable in the administration and management of emergency care and services; and

(c) Is so certified by the department of health for a county, group of counties, or cities with populations over four hundred thousand in coordination with the recommendations of the local medical community and local emergency medical services and trauma care council.

(5) The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of certificates, and the disciplining of certificate holders under this section. The secretary shall be the disciplining authority under this section. Disciplinary action shall be initiated against a person credentialed under this chapter in a manner consistent with the responsibilities and duties of the medical program director under whom such person is responsible.

(6) Such activities of physician's trained advanced emergency medical technicians and paramedics shall be limited to actions taken under the express written or oral order of medical program directors and shall not be construed at any time to include freestanding or nondirected actions, for actions not

presenting an emergency or life-threatening condition, except nonemergency activities performed pursuant to subsection (7) of this section.

(7) Nothing in this section prohibits a physician's trained advanced emergency medical technician or paramedic, acting under the responsible supervision and direction of an approved medical program director, from participating in a community assistance referral and education services program established under RCW 35.21.930 if such participation does not exceed the participant's training and certification.

Passed by the House March 7, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

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## CHAPTER 137

[Second Substitute House Bill 1905]

### HOMELESSNESS—YOUTH AND YOUNG ADULTS—DISCHARGE FROM PUBLIC CARE

AN ACT Relating to reducing homelessness for youth and young adults discharging from a publicly funded system of care; adding a new section to chapter 43.216 RCW; adding new sections to chapter 43.330 RCW; creating new sections; providing an effective date; 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 young people discharging from publicly funded systems of care are at increased risk of homelessness. Youth and young adults experiencing homelessness face traumatic events at a higher rate than their peers who have stable housing. Homelessness has long-term impacts on brain development and well-being and creates barriers to education and employment.

(2) RCW 43.330.720 establishes a goal that any unaccompanied youth discharged from a publicly funded system of care in our state will be discharged into safe and stable housing. The office of homeless youth prevention and protection programs and the department of children, youth, and families published the improving stability for youth exiting systems of care report in 2020 outlining steps to achieve this goal. These steps provide a multipronged approach to ensure youth exit publicly funded systems of care into safe and stable housing, including:

(a) System-level support while youth are in the custody of publicly funded systems of care to ensure effective transition from care;

(b) Community-level connections and services to provide support when youth transition back to the community; and

(c) Resources to secure and maintain stable housing.

(3) The legislature intends to implement community services, system response, and flexible resources to support the goal established under RCW 43.330.720 that youth discharged from publicly funded systems of care are discharged into safe and stable housing with the appropriate supports in place to provide a strong footing.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.216 RCW to read as follows:

(1) The department, in coordination with the office of homeless youth prevention and protection programs, the department of social and health services, and the health care authority, shall develop and implement a rapid response team that is prepared to respond appropriately to support youth and young adults exiting a publicly funded system of care. As part of the development and implementation of the rapid response team, the department shall develop and implement a system for:

(a) Identifying youth and young adults that should be served by the rapid response team;

(b) Initiating use of the rapid response team in a timely manner that will allow for the best possible transition planning; and

(c) Locating services and connecting youth and young adults with those services to establish stability.

(2) The rapid response team developed under this section may provide assistance and support to youth and young adults who are at risk of becoming homeless and who are exiting a publicly funded system of care with the goal of securing appropriate housing and other supports for the youth or young adult. If there is no housing identified for a youth or young adult upon exit, the rapid response team shall meet before a youth or young adult transitions out of a publicly funded system of care to allow the youth or young adult to better prepare for the exit. The assistance and support provided under this subsection should occur as soon as possible, particularly if a youth or young adult presents risk factors that place the youth at higher risk of possible homelessness.

(3) Any of the following individuals may refer a youth or young adult to the rapid response team:

(a) A youth or young adult themselves;

(b) A family member of a youth or young adult;

(c) An advocate for a youth or young adult;

(d) An educator;

(e) A law enforcement officer;

(f) An employee of the department or the office of homeless youth prevention and protection programs;

(g) A service provider contracting with or licensed by the department;

(h) A behavioral health service provider serving a youth or young adult; or

(i) A service provider contracting with the office of homeless youth prevention and protection programs.

(4) For the purposes of this section:

(a) "Publicly funded system of care" has the same meaning as provided in RCW 43.330.720;

(b) "Rapid response team" means a team of representatives from relevant state agencies that meet to respond to complex cases involving a youth or young adult located anywhere in the state exiting a publicly funded system of care to support those youth or young adults with the goal of securing appropriate housing and other supports for the youth or young adult. Services and supports under this section must incorporate youth or young adult voice and choice. The services under this section must be responsive to the individual needs of each youth or young adult and may include, but are not limited to:

(i) Behavioral health services;

(ii) Civil legal aid;

- (iii) Peer support;
  - (iv) Family reconciliation or engagement services;
  - (v) Employment support;
  - (vi) Education support;
  - (vii) Case management;
  - (viii) Housing and financial support; or
  - (ix) Other navigation support to secure safe and stable housing; and
- (c) "Youth" and "young adult" have the same meaning as provided in RCW

43.330.702.

(5) By November 1, 2023, and annually thereafter, the department, in coordination with the office of homeless youth prevention and protection programs shall provide a report to the legislature and the governor including data and recommendations related to the rapid response team created in this section. The report required under this subsection must be submitted in compliance with RCW 43.01.036. The report required under this subsection must include the following:

- (a) The number of people referred to the rapid response team and the types of people making referrals to the rapid response team;
- (b) The demographic data of the people served by the rapid response team;
- (c) The types of services identified as needed for the people served by the rapid response team;
- (d) The availability of the services identified as needed for the people served by the rapid response team; and
- (e) The barriers identified to adequately address the needs of people referred to the rapid response team and recommendations to address those barriers.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The office of homeless youth prevention and protection programs, in coordination with the department of children, youth, and families, shall administer flexible funding, subject to the amounts appropriated for this specific purpose, to support persons under the age of 25 exiting publicly funded systems of care that need discrete support or funding to secure safe housing. The flexible funding provided under this section may be provided for immediate needs of the person. A person may receive support under this section more than once. Uses of the flexible funding provided under this section may include, but are not limited to, the following:

- (a) Car repair or other transportation assistance;
- (b) Rental application fees, a security deposit, or short-term rental assistance; or
- (c) Other uses that will help support the person's housing stability, education, or employment, or meet immediate basic needs.

(2) The flexible funding provided under this section may be given to:

- (a) Persons under the age of 25;
- (b) Community-based providers, assisting persons under the age of 25 in planning for discharge and successfully discharging from a publicly funded system of care into safe and stable housing; and
- (c) Individuals or entities, including landlords, providing safe housing or other housing-related support for persons under the age of 25.

(3) The office of homeless youth prevention and protection programs shall make training available to publicly funded systems of care and other professionals working with youth exiting publicly funded systems of care on how to access the flexible funds created under this section and best practices to divert youth from homelessness.

(4) For purposes of this section, "publicly funded system of care" has the same meaning as provided in RCW 43.330.720.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to the amounts appropriated for this specific purpose, the office of homeless youth prevention and protection programs shall select, monitor, and provide funding and assistance for a minimum of six total counties that implement housing stability for youth in crisis programs as described in this section for a period of three years.

(2) The housing stability for youth in crisis pilot programs must include the following components:

(a) Regular trainings provided to all appropriate juvenile court staff regarding risk factors and identifiers for youth homelessness;

(b) An identification and referral system used throughout the juvenile court system where all appropriate court staff use routine data flags to identify youth at risk for youth homelessness and refer youth to the housing stability coordinator described under (c) of this subsection;

(c) A dedicated housing stability coordinator in each participating county that receives referrals, conducts housing stability assessments with youth and caregivers, connects youth and caregivers with relevant community providers based on assessments, and follows up on referrals;

(d) A model of homelessness prevention services that provides the appropriate amount of intervention based on the youth or family needs; and

(e) Coordinated housing services for youth experiencing homelessness.

(3) By October 1, 2025, and in compliance with RCW 43.01.036, the office of homeless youth prevention and protection programs shall submit a report to the relevant committees of the legislature and the governor that includes:

(a) An evaluation of the housing stability for youth in crisis programs that includes outcome data for participants;

(b) Recommendations for improving the housing stability for youth in crisis programs; and

(c) Recommendation for expanding the housing stability for youth in crisis programs.

(4) This section expires July 1, 2026.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to the amounts appropriated for this specific purpose, the office of homeless youth prevention and protection programs shall provide system of care grants that prevent youth from exiting a publicly funded system of care into homelessness.

(2) The system of care grants funded under this section shall provide support to youth exiting a publicly funded system of care and may include:

(a) Behavioral health services;

- (b) Civil legal aid;
- (c) Peer navigators and support;
- (d) Family reconciliation or engagement services;
- (e) Employment support;
- (f) Education support;
- (g) Case management;
- (h) Housing and financial support; or
- (i) Other navigation support to secure safe and stable housing.

(3) For purposes of this section, "publicly funded system of care" has the same meaning as provided in RCW 43.330.720.

NEW SECTION. Sec. 6. Section 2 of this act takes effect January 1, 2023.

NEW SECTION. Sec. 7. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the House February 12, 2022.

Passed by the Senate March 4, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

**CHAPTER 138**

[House Bill 1907]

POSTSECONDARY EDUCATION—GIFT EQUITY PACKAGING POLICIES—SCHOLARSHIP  
DISPLACEMENT

AN ACT Relating to scholarship displacement in postsecondary institutions' gift equity packaging policies; adding a new section to chapter 28B.77 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature recognizes the importance of philanthropic entities that donate millions of dollars in private scholarships to students and that such entities are a key component in helping students attain their educational goals. The legislature seeks to encourage philanthropic giving of private scholarships and declares that such entities are more likely to donate money when they know their scholarships will genuinely help recipients meet their financial needs. Therefore, the legislature intends to incentivize the giving of scholarships by private entities by addressing scholarship displacement.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.77 RCW to read as follows:

(1) The council shall ensure that a postsecondary institution participating in the state student financial aid program has a gift equity packaging policy allowing for a student who receives a private scholarship to receive up to 100 percent of the student's unmet need, as determined by the United States department of education's federal need analysis methodology, before any of the student's federal, state, or institutional financial aid is reduced under the institution's gift equity packaging policy.

(2) This section does not apply to public community and technical colleges.

Passed by the House February 8, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.  
 Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 139

[Engrossed House Bill 1931]

### HYDROPOWER LICENSE FEES—EXPIRATION DATE

AN ACT Relating to sustaining hydropower license fees; and amending RCW 90.16.050.

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

**Sec. 1.** RCW 90.16.050 and 2016 c 75 s 1 are each amended to read as follows:

(1) Every person, firm, private or municipal corporation, or association hereinafter called "claimant", claiming the right to the use of water within or bordering upon the state of Washington for power development, shall on or before the first day of January of each year pay to the state of Washington in advance an annual license fee, based upon the theoretical water power claimed under each and every separate claim to water according to the following schedule:

(a) For projects in operation: For each and every theoretical horsepower claimed up to and including one thousand horsepower, at the rate of eighteen cents per horsepower; for each and every theoretical horsepower in excess of one thousand horsepower, up to and including ten thousand horsepower, at the rate of three and six-tenths cents per horsepower; for each and every theoretical horsepower in excess of ten thousand horsepower, at the rate of one and eight-tenths cents per horsepower.

(b) For federal energy regulatory commission projects in operation that are subject to review for certification under section 401 of the federal clean water act, the following fee schedule applies in addition to the fees in (a) of this subsection: For each theoretical horsepower of capacity up to and including one thousand horsepower, at the rate of thirty-two cents per horsepower; for each theoretical horsepower in excess of one thousand horsepower, up to and including ten thousand horsepower, at the rate of six and four-tenths cents per horsepower; for each theoretical horsepower in excess of ten thousand horsepower, at the rate of three and two-tenths cents per horsepower.

(c) To justify the appropriate use of fees collected under (b) of this subsection, the department of ecology shall submit a progress report to the appropriate committees of the legislature prior to December 31, 2009, and biennially thereafter. ~~((†))~~ The progress report will: ~~((A))~~ (i) Describe how license fees and other funds used for the work of the licensing program were expended in direct support of the federal energy regulatory commission licensing process and license implementation during the current biennium, and expected workload and full-time equivalent employees for federal energy regulatory commission licensing in the next biennium. In order to increase the financial accountability of the licensing, relicensing, and license implementation program, the report must include the amount of licensing fees and program funds that were expended on licensing work associated with each hydropower project. This project-specific program expenditure list must detail the program costs and staff time associated with each hydropower project during the time period

immediately prior to license issuance process, the program costs and staff time deriving from the issuance or reissuance of a license to each hydropower project, and the program costs and staff time associated with license implementation after the issuance or reissuance of a license to a hydropower project. This program cost and staff time information must be collected beginning July 1, 2016, and included in biennial reports addressing program years 2016 or later. The report must also include an estimate of the total workload, program costs, and staff time for work associated with either certification under section 401 of the federal clean water act or license implementation for federally licensed hydropower projects expected to occur in the next reporting period, or both. In addition, the report must provide sufficient information to determine that the fees charged are not for activities already performed by other state or federal agencies or tribes that have jurisdiction over a specific license requirement and that duplicative work and expense is avoided; ~~((B))~~ (ii) include any recommendations based on consultation with the departments of ecology and fish and wildlife, hydropower project operators, and other interested parties; and ~~((C))~~ (iii) recognize hydropower operators that exceed their environmental regulatory requirements.

~~((ii) The fees required in (b) of this subsection expire June 30, 2023. The biennial progress reports submitted by the department of ecology will serve as a record for considering the extension of the fee structure in (b) of this subsection.)~~

(d) The fees required in (b) of this subsection expire June 30, 2029. The biennial program reports submitted by the department of ecology will serve as a record for considering the extension of the fee structure in (b) of this subsection.

(2) The following are exceptions to the fee schedule in subsection (1) of this section:

(a) For undeveloped projects, the fee shall be at one-half the rates specified for projects in operation; for projects partly developed and in operation the fees paid on that portion of any project that shall have been developed and in operation shall be the full annual license fee specified in subsection (1) of this section for projects in operation, and for the remainder of the power claimed under such project the fees shall be the same as for undeveloped projects.

(b) The fees required in subsection (1) of this section do not apply to any hydropower project owned by the United States.

(c) The fees required in subsection (1) of this section do not apply to the use of water for the generation of fifty horsepower or less.

(d) The fees required in subsection (1) of this section for projects developed by an irrigation district in conjunction with the irrigation district's water conveyance system shall be reduced by fifty percent to reflect the portion of the year when the project is not operable.

(e) Any irrigation district or other municipal subdivision of the state, developing power chiefly for use in pumping of water for irrigation, upon the filing of a statement showing the amount of power used for irrigation pumping, is exempt from the fees in subsection (1) of this section to the extent of the power used for irrigation pumping.

(3) In order to ensure accountability in the licensing, relicensing, and license implementation programs of the department of ecology and the department of



fish and wildlife, the departments must implement the following administrative requirements:

(a)(i) Both the department of ecology and the department of fish and wildlife must be responsible for producing an annual work plan that addresses the work anticipated to be completed by each department associated with federal hydropower licensing and license implementation.

(ii) Both the department of ecology and the department of fish and wildlife must assign one employee to each licensed hydropower project to act as each department's designated licensing and implementation lead for a hydropower project. The responsibility assigned by each department to hydropower project licensing and implementation leads must include resolving conflicts with the license applicant or license holder and the facilitation of department decision making related to license applications and license implementation for the particular hydropower project assigned to a licensing lead.

(b) The department of ecology and the department of fish and wildlife must host an annual meeting with parties interested in or affected by hydropower project licensing and the associated fees charged under this section. The purposes of the annual meeting must include soliciting information from interested parties related to the annual hydropower work plan required by (a) of this subsection and to the biennial progress report produced pursuant to subsection (1)(c)((+)) of this section.

(c) Prior to the annual meeting required by (b) of this subsection, the department of fish and wildlife and the department of ecology must circulate a survey to hydropower licensees soliciting feedback on the responsiveness of department staff, clarity of staff roles and responsibilities in the hydropower licensing and implementation process, and other topics related to the professionalism and expertise of department staff assigned to hydropower project licensing projects. This survey must be designed by the department of fish and wildlife and the department of ecology after consulting with hydropower licensees and the results of the survey must be included in the biennial progress report produced pursuant to subsection (1)(c)((+)) of this section. Prior to the annual meeting, the department of ecology and the department of fish and wildlife must analyze the survey results. The departments must present summarized information based on their analysis of survey results at the annual meeting for purposes of discussion with hydropower project licensees.

Passed by the House February 15, 2022.

Passed by the Senate March 4, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 140

[House Bill 1953]

### BALLOTS—SENSITIVE VOTER INFORMATION—DISCLOSURE

AN ACT Relating to exempting sensitive voter information on ballot return envelopes, ballot declarations, and signature correction forms from public disclosure; amending RCW 42.56.420; adding a new section to chapter 29A.04 RCW; creating a new section; and declaring an emergency.

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

**Sec. 1.** RCW 42.56.420 and 2021 c 26 s 1 are each amended to read as follows:

The following information relating to security is exempt from disclosure under this chapter:

(1) Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

(a) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and

(b) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism;

(2) Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, or secure facility for persons civilly confined under chapter 71.09 RCW, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility, secure facility for persons civilly confined under chapter 71.09 RCW, or any individual's safety;

(3) Information compiled by school districts or schools in the development of their comprehensive safe school plans under RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school;

(4) Information regarding the public and private infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities, and other such information the release of which may increase risk to the confidentiality, integrity, or availability of security, information technology infrastructure, or assets;

(5) The system security and emergency preparedness plan required under RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180;

(6) Personally identifiable information of employees, and other security information, of a private cloud service provider that has entered into a criminal justice information services agreement as contemplated by the United States department of justice criminal justice information services security policy, as authorized by 28 C.F.R. Part 20; and

(7)(a) In addition to the information in subsection (4) of this section, the following related to election security:

~~((a))~~(i) The continuity of operations plan for election operations and any security audits, security risk assessments, or security test results, relating to

physical security or cybersecurity of election operations or infrastructure. These records are exempt from disclosure in their entirety; ~~((and))~~

(ii) Those portions of records containing information about election infrastructure, election security, or potential threats to election security, the public disclosure of which may increase risk to the integrity of election operations or infrastructure; and

(iii) Voter signatures on ballot return envelopes, ballot declarations, and signature correction forms, including the original documents, copies, and electronic images; and a voter's phone number and email address contained on ballot return envelopes, ballot declarations, or signature correction forms. The secretary of state, by rule, may authorize in-person inspection of unredacted ballot return envelopes, ballot declarations, and signature correction forms in accordance with section 2 of this act.

(b) The exemptions specified in (a) of this subsection do not include information or records pertaining to security breaches, except as prohibited from disclosure pursuant to RCW 29A.12.200.

(c) The exemptions specified in (a) of this subsection do not prohibit an audit authorized or required under Title 29A RCW from being conducted.

NEW SECTION. Sec. 2. A new section is added to chapter 29A.04 RCW to read as follows:

(1) In accordance with RCW 42.56.420, the following are exempt from disclosure:

(a) Voter signatures on ballot return envelopes, ballot declarations, and signature correction forms, including the original documents, copies, and electronic images; and

(b) A voter's phone number and email address contained on ballot return envelopes, ballot declarations, or signature correction forms.

(2) The secretary of state may, by rule, authorize in-person inspection of unredacted ballot return envelopes, ballot declarations, and signature correction forms. Except as provided under subsection (3) of this section, a person may not photocopy, photograph, or otherwise reproduce an image of the ballot return envelope, ballot declaration, or signature correction form. When inspecting a ballot return envelope, ballot declaration, or signature correction form in person, a person may not carry with them any materials or devices that could be used to record any voter information found on the ballot return envelope, ballot declaration, or signature correction form.

(3) Nothing in this section or RCW 42.56.420(7)(a)(iii) prevents disclosure of any information on ballot return envelopes, ballot declarations, or signature correction forms, other than a voter's signature, phone numbers, and email addresses. Nothing in this section prevents election officials from disclosing information listed in subsection (1) of this section for official purposes. The secretary of state may adopt rules identifying official purposes for which a voter's signature, phone numbers, and email addresses may be disclosed.

(4) For purposes of this section, "signature correction form" means any form submitted by a voter for the purpose of curing a missing or mismatched signature on a ballot declaration or otherwise updating the voter signature.

**NEW SECTION. Sec. 3.** The exemptions in sections 1 and 2 of this act apply to any public records request made prior to the effective date of this section for which disclosure of records has not already been completed.

**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 immediately.

Passed by the House February 9, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 141

[Substitute House Bill 1961]

### NAME CHANGE ORDERS—WAIVER OF AUDITOR'S FEES

AN ACT Relating to the authority of the courts to waive auditor's fees for filing and recording name change orders; amending RCW 4.24.130 and 36.18.010; and providing an effective date.

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

**Sec. 1.** RCW 4.24.130 and 2021 c 215 s 90 are each amended to read as follows:

(1) Any person desiring a change of (~~(his or her)~~) the person's name or that of (~~(his or her)~~) the person's child or ward, may apply therefor to the district court of the judicial district in which (~~(he or she)~~) the person resides, by petition setting forth the reasons for such change; thereupon such court in its discretion may order a change of the name and thenceforth the new name shall be in place of the former.

(2) An offender under the jurisdiction of the department of corrections who applies to change (~~(his or her)~~) the offender's name under subsection (1) of this section shall submit a copy of the application to the department of corrections not fewer than five days before the entry of an order granting the name change. No offender under the jurisdiction of the department of corrections at the time of application shall be granted an order changing (~~(his or her)~~) the offender's name if the court finds that doing so will interfere with legitimate penological interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. An offender under the jurisdiction of the department of corrections who receives an order changing (~~(his or her)~~) the offender's name shall submit a copy of the order to the department of corrections within five days of the entry of the order. Violation of this subsection is a misdemeanor.

(3) A sex offender subject to registration under RCW 9A.44.130 who applies to change (~~(his or her)~~) the sex offender's name under subsection (1) of this section shall follow the procedures set forth in RCW 9A.44.130(7).

(4) The district court shall collect the fees authorized by RCW 36.18.010 for filing and recording a name change order, and transmit the fee and the order to the county auditor. The court may collect a reasonable fee to cover the cost of transmitting the order to the county auditor. Upon affidavit by the person seeking the name change that the person is unable to pay the fees due to financial hardship, the court shall waive all fees for filing and recording a name change

order and direct the county auditor or recording officer to process the name change order at no expense to the person. The court may not waive the fees if the person has received victim compensation for name change fees.

(5) Name change petitions may be filed and shall be heard in superior court when the person desiring a change of (~~(his or her)~~) the person's name or that of (~~(his or her)~~) the person's child or ward is a victim of domestic violence as defined in RCW 7.105.010 and the person seeks to have the name change file sealed due to reasonable fear for (~~(his or her)~~) the person's safety or that of (~~(his or her)~~) the person's child or ward. Upon granting the name change, the superior court shall seal the file if the court finds that the safety of the person seeking the name change or (~~(his or her)~~) the person's child or ward warrants sealing the file. In all cases filed under this subsection, whether or not the name change petition is granted, there shall be no public access to any court record of the name change filing, proceeding, or order, unless the name change is granted but the file is not sealed.

**Sec. 2.** RCW 36.18.010 and 2019 c 448 s 3 are each amended to read as follows:

~~((County))~~ Except as otherwise ordered by the court pursuant to RCW 4.24.130, county auditors or recording officers shall collect the following fees for their official services:

(1) For recording instruments, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

(2) For preparing and certifying copies, for the first page eight and one-half by fourteen inches or less, three dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

(3) For preparing noncertified copies, for each page eight and one-half by fourteen inches or less, one dollar;

(4) For administering an oath or taking an affidavit, with or without seal, two dollars;

(5) For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ten dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

(6) For searching records per hour, eight dollars;

(7) For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each

acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;

(8) For recording of miscellaneous records not listed above, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

(9) For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170;

(10) For recording an emergency nonstandard document as provided in RCW 65.04.047, fifty dollars, in addition to all other applicable recording fees;

(11) For recording instruments, a three dollar surcharge to be deposited into the Washington state library operations account created in RCW 43.07.129;

(12) For recording instruments, a two dollar surcharge to be deposited into the Washington state library-archives building account created in RCW 43.07.410 until the financing contract entered into by the secretary of state for the Washington state library-archives building is paid in full;

(13) For recording instruments, a surcharge as provided in RCW 36.22.178; and

(14) For recording instruments, except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a surcharge as provided in RCW 36.22.179.

**NEW SECTION. Sec. 3.** This act takes effect July 1, 2022.

Passed by the House January 26, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 142

[Substitute House Bill 1980]

### DEVELOPMENTAL DISABILITIES—CONCURRENT EMPLOYMENT SERVICES AND COMMUNITY ACCESS SERVICES

AN ACT Relating to removing the prohibition on providing employment services and community access services concurrently; amending RCW 71A.12.290; and creating new sections.

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

**NEW SECTION. Sec. 1.** The legislature finds that individuals with intellectual and developmental disabilities have the right to choose how they engage in their community, while having the necessary supports to do so. The dual services prohibition between individual supported employment and community inclusion has prevented individuals with intellectual and developmental disabilities from engaging in the supported activities, volunteerism, and social and practical skill-building offered by community inclusion while employed or waiting for job placement. This lack of dual services has left many individuals with intellectual and developmental disabilities unengaged, isolated, and without the freedom to choose between services. By removing this prohibition, the legislature intends to enhance and supplement individual supported employment and give back an individual's right to participate in multiple services that best meet their needs for community growth and engagement.

**Sec. 2.** RCW 71A.12.290 and 2012 c 49 s 1 are each amended to read as follows:

(1) Clients age ~~((twenty-one))~~ 21 and older who are receiving employment services must be offered the choice to transition to a community access program after nine months of enrollment in an employment program, and the option to transition from a community access program to an employment program at any time. Enrollment in an employment program begins at the time the client is authorized to receive employment.

(2) Prior approval by the department shall not be required to effectuate the client's choice to transition from an employment program to community access services after verifying nine months of participation in employment-related services.

(3) The department shall inform clients and their legal representatives of all available options for employment and day services, including the opportunity to request an exception from enrollment in an employment program. Information provided to the client and the client's legal representative must include the types of activities each service option provides, and the amount, scope, and duration of service for which the client would be eligible under each service option. ~~((An individual client may be authorized for only one service option, either employment services or community access services. Clients may not participate in more than one of these services at any given time.))~~

(4) The department shall work with counties and stakeholders to strengthen and expand the existing community access program, including the consideration of options that allow for alternative service settings outside of the client's residence. The program should emphasize support for the clients so that they are able to participate in activities that integrate them into their community and support independent living and skills.

(5) The department shall develop rules to allow for an exception to the requirement that a client participate in an employment program for nine months prior to transitioning to a community access program.

**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, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the House February 14, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 143

[Engrossed House Bill 1982]

### PERSONAL PROPERTY TAXES—PENALTIES AND INTEREST

AN ACT Relating to clarifying the applicability of penalty and interest on personal property taxes; reenacting and amending RCW 84.56.020; and declaring an emergency.

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

**Sec. 1.** RCW 84.56.020 and 2021 c 257 s 1, 2021 c 122 s 15, and 2021 c 42 s 3 are each reenacted and amended to read as follows:

**Treasurers' tax collection duties.**

(1) The county treasurer must be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. No treasurer may accept tax payments or issue receipts for the same until the treasurer has completed the tax roll for the current year's collection and provided notification of the completion of the roll. Notification may be accomplished electronically, by posting a notice in the office, or through other written communication as determined by the treasurer. All real and personal property taxes and assessments made payable by the provisions of this title are due and payable to the county treasurer on or before the thirtieth day of April and, except as provided in this section, are delinquent after that date.

**Tax statements.**

(2)(a) Tax statements for the current year's collection must be distributed to each taxpayer on or before March 15th provided that:

(i) All city and other taxing district budgets have been submitted to county legislative authorities by November 30th per RCW 84.52.020;

(ii) The county legislative authority in turn has certified taxes levied to the county assessor in accordance with RCW 84.52.070; and

(iii) The county assessor has delivered the tax roll to the county treasurer by January 15th per RCW 84.52.080.

(b) Each tax statement must include a notice that checks for payment of taxes may be made payable to "Treasurer of . . . . County" or other appropriate office, but tax statements may not include any suggestion that checks may be made payable to the name of the individual holding the office of treasurer nor any other individual.

(c) Each tax statement distributed to an address must include a notice with information describing the:

(i) Property tax exemption program pursuant to RCW 84.36.379 through 84.36.389; and

(ii) Property tax deferral program pursuant to chapter 84.38 RCW.

**Tax payment due dates.**

**On-time tax payments: First-half taxes paid by April 30th and second-half taxes paid by October 31st.**

(3) When the total amount of tax or special assessments on personal property or on any lot, block or tract of real property payable by one person is fifty dollars or more, and if one-half of such tax is paid on or before the thirtieth day of April, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

**Delinquent tax payments for current year: First-half taxes paid after April 30th.**

(4) When the total amount of tax or special assessments on any lot, block or tract of real property, personal property, or on any mobile home payable by one person is fifty dollars or more, and if one-half of such tax is paid after the thirtieth day of April but before the thirty-first day of October, together with the applicable interest and penalty on the full amount of tax payable for that year, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

**Delinquent tax payments: Interest, penalties, and treasurer duties.**



(5)(a) Except as provided in (c) of this subsection, delinquent taxes under this section are subject to interest as provided in this subsection computed on a monthly basis on the amount of tax delinquent from the date of delinquency until paid. Interest must be calculated at the rate ~~((in effect at the time of the tax payment, regardless of when the taxes were first delinquent))~~ as described below.

(i) Until December 31, 2022, the interest rate is 12 percent per annum for all nonresidential real property ~~((and)),~~ residential real property, and personal property.

(ii) Beginning January 1, 2023, interest rates are as follows:

(A) ~~((Twelve percent per annum for all nonresidential real property and for residential real property with greater than four units per taxable parcel; or~~

~~(B))~~ Nine percent per annum for all residential real property with four or fewer units per taxable parcel, including manufactured/mobile homes as defined in RCW 59.20.030 for taxes levied in 2023 or after; or

(B) Twelve percent per annum for all other property.

(b)(i) Penalties on delinquent taxes under this section may not be assessed beginning January 1, 2022, and through December 31, 2022.

(ii) Beginning January 1, 2023, delinquent taxes under this section are subject to penalties for nonresidential real property ~~((and for)),~~ residential real property with greater than four units per taxable parcel, and for personal property as follows:

(A) A penalty of three percent of the amount of tax delinquent is assessed on the tax delinquent on June 1st of the year in which the tax is due.

(B) An additional penalty of eight percent is assessed on the delinquent tax amount on December 1st of the year in which the tax is due.

(iii) Penalties may not be assessed on residential real property with four or fewer units per taxable parcel, including manufactured/mobile homes as defined in RCW 59.20.030.

(c)(i) If a taxpayer is successfully participating in a payment agreement under subsection (15)(b) of this section or a partial payment program pursuant to subsection (15)(c) of this section, the county treasurer may not assess additional penalties on delinquent taxes that are included within the payment agreement. Interest and penalties that have been assessed prior to the payment agreement remain due and payable as provided in the payment agreement.

(ii) The following remain due and payable as provided in any payment agreement:

(A) Interest that has been assessed prior to the payment agreement; and

(B) Penalties assessed prior to January 1, 2022, that have been assessed prior to the payment agreement.

(6) A county treasurer must provide notification to each taxpayer whose taxes have become delinquent under subsections (4) and (5) of this section. The delinquency notice must specify where the taxpayer can obtain information regarding:

(a) Any current tax or special assessments due as of the date of the notice;

(b) Any delinquent tax or special assessments due, including any penalties and interest, as of the date of the notice; and

(c) Where the taxpayer can pay his or her property taxes directly and contact information, including but not limited to the phone number, for the statewide

foreclosure hotline recommended by the Washington state housing finance commission.

(7) Within ninety days after the expiration of two years from the date of delinquency (when a taxpayer's taxes have become delinquent), the county treasurer must provide the name and property address of the delinquent taxpayer to a homeownership resource center or any other designated local or state entity recommended by the Washington state housing finance commission.

**Collection of foreclosure costs.**

(8)(a) When real property taxes become delinquent and prior to the filing of the certificate of delinquency, the treasurer is authorized to assess and collect tax foreclosure avoidance costs.

(b) When tax foreclosure avoidance costs are collected, such costs must be credited to the county treasurer service fund account, except as otherwise directed.

(c) For purposes of chapter 84.64 RCW, any taxes, interest, or penalties deemed delinquent under this section remain delinquent until such time as all taxes, interest, and penalties for the tax year in which the taxes were first due and payable have been paid in full.

**Periods of armed conflict.**

(9) Subsection (5) of this section notwithstanding, no interest or penalties may be assessed during any period of armed conflict regarding delinquent taxes imposed on the personal residences owned by active duty military personnel who are participating as part of one of the branches of the military involved in the conflict and assigned to a duty station outside the territorial boundaries of the United States.

**State of emergency.**

(10) During a state of emergency declared under RCW 43.06.010(12), the county treasurer, on his or her own motion or at the request of any taxpayer affected by the emergency, may grant extensions of the due date of any taxes payable under this section as the treasurer deems proper.

**Retention of funds from interest.**

(11) All collections of interest on delinquent taxes must be credited to the county current expense fund.

(12) For purposes of this chapter, "interest" means both interest and penalties.

**Retention of funds from property foreclosures and sales.**

(13) The direct cost of foreclosure and sale of real property, and the direct fees and costs of distraint and sale of personal property, for delinquent taxes, must, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and must be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint, and sale because of delinquent taxes without regard to budget limitations and not subject to indirect costs of other charges.

**Tax due dates and options for tax payment collections.**

**Electronic billings and payments.**

(14) For purposes of this chapter, and in accordance with this section and RCW 36.29.190, the treasurer may collect taxes, assessments, fees, rates, interest, and charges by electronic billing and payment. Electronic billing and payment may be used as an option by the taxpayer, but the treasurer may not

require the use of electronic billing and payment. Electronic bill presentment and payment may be on a monthly or other periodic basis as the treasurer deems proper for:

- (a) Delinquent tax year payments; and
- (b) Prepayments of current tax.

**Tax payments.**

**Prepayment for current taxes.**

(15)(a) The treasurer may accept prepayments for current year taxes by any means authorized. All prepayments must be paid in full by the due date specified in subsection (16) of this section.

**Payment agreements for current year taxes.**

(b)(i) The treasurer may provide, by electronic means or otherwise, a payment agreement that provides for payment of current year taxes, inclusive of prepayment collection charges. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for current year taxes.

**Payment agreements for delinquent year taxes.**

(ii)(A) The treasurer may provide, by electronic means or otherwise, a payment agreement for payment of past due delinquencies. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for past due delinquent taxes and charges.

(B) Tax payments received by a treasurer for delinquent year taxes from a taxpayer participating on a payment agreement must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

**Partial payments: Acceptance of partial payments for current and delinquent taxes.**

(c)(i) In addition to the payment agreement program in (b) of this subsection, the treasurer may accept partial payment of any current and delinquent taxes including interest and penalties by any means authorized including electronic bill presentment and payments.

(ii) All tax payments received by a treasurer for delinquent year taxes from a taxpayer paying a partial payment must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

**Payment for delinquent taxes.**

(d) Payments on past due taxes must include collection of the oldest delinquent year, which includes interest, penalties, and taxes within an eighteen-month period, prior to filing a certificate of delinquency under chapter 84.64 RCW or distraint pursuant to RCW 84.56.070.

**Due date for tax payments.**

(16) All taxes upon real and personal property made payable by the provisions of this title are due and payable to the treasurer on or before the thirtieth day of April and are delinquent after that date. The remainder of the tax is due and payable on or before the following thirty-first of October and is delinquent after that date. All other assessments, fees, rates, and charges are delinquent after the due date.

**Electronic funds transfers.**

(17) A county treasurer may authorize payment of:

(a) Any current property taxes due under this chapter by electronic funds transfers on a monthly or other periodic basis; and

(b) Any past due property taxes, penalties, and interest under this chapter by electronic funds transfers on a monthly or other periodic basis. Delinquent taxes are subject to interest and penalties, as provided in subsection (5) of this section. All tax payments received by a treasurer from a taxpayer paying delinquent year taxes must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

**Payment for administering prepayment collections.**

(18) The treasurer must pay any collection costs, investment earnings, or both on past due payments or prepayments to the credit of a county treasurer service fund account to be created and used only for the payment of expenses incurred by the treasurer, without limitation, in administering the system for collecting prepayments.

**Waiver of interest and penalties for qualified taxpayers subject to foreclosure.**

(19) No earlier than sixty days prior to the date that is three years after the date of delinquency, the treasurer must waive all outstanding interest and penalties on delinquent taxes due from a taxpayer if the property is subject to an action for foreclosure under chapter 84.64 RCW and the following requirements are met:

(a) The taxpayer is income-qualified under RCW 84.36.381(5)(a), as verified by the county assessor;

(b) The taxpayer occupies the property as their principal place of residence; and

(c) The taxpayer has not previously received a waiver on the property as provided under this subsection.

**Definitions.**

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

(a) "Electronic billing and payment" means statements, invoices, or bills that are created, delivered, and paid using the internet. The term includes an automatic electronic payment from a person's checking account, debit account, or credit card.

(b) "Internet" has the same meaning as provided in RCW 19.270.010.

(c) "Tax foreclosure avoidance costs" means those direct costs associated with the administration of properties subject to and prior to foreclosure. Tax foreclosure avoidance costs include:

(i) Compensation of employees for the time devoted to administering the avoidance of property foreclosure; and

(ii) The cost of materials, services, or equipment acquired, consumed, or expended in administering tax foreclosure avoidance prior to the filing of a certificate of delinquency.

**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 House February 2, 2022.

Passed by the Senate March 4, 2022.

Approved by the Governor March 24, 2022.  
 Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 144

[House Bill 2024]

### STATE ROUTE 520 CORRIDOR—SALES AND USE TAX DEFERRAL

AN ACT Relating to a sales and use tax deferral for projects to improve the state route number 520 corridor; amending RCW 47.01.412; creating a new section; and providing an effective date.

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

**Sec. 1.** RCW 47.01.412 and 2008 c 270 s 7 are each amended to read as follows:

(1)(a) Any person involved in the construction of the state route number 520 bridge replacement and HOV project may apply for deferral of state and local sales and use taxes on the site preparation for, the construction of, the acquisition of any related machinery and equipment that will become a part of, and the rental of equipment for use in, the project.

(b) Application shall be made to the department of revenue in a form and manner prescribed by the department of revenue. The application must contain information regarding estimated or actual costs, time schedules for completion and operation, and other information required by the department of revenue. The department of revenue shall approve the application within (~~sixty~~) 60 days if it meets the requirements of this section.

(2) The department of revenue shall issue a sales and use tax deferral certificate for state and local sales and use taxes imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW and RCW 81.104.170 on the project.

(3) A person granted a tax deferral under this section shall begin paying the deferred taxes in the (~~fifth~~) 24th year after the date certified by the department of revenue as the date on which the project is operationally complete. The project is operationally complete under this section when the replacement bridge is constructed and opened to traffic. The first payment is due on December 31st of the (~~fifth~~) 24th calendar year after the certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment shall equal (~~ten~~) 10 percent of the deferred tax.

(4) The department of revenue may authorize an accelerated repayment schedule upon request of a person granted a deferral under this section.

(5) Interest shall not be charged on any taxes deferred under this section for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this section. The debt for deferred taxes is not extinguished by insolvency or other failure of any private entity granted a deferral under this section.

(6) Applications and any other information received by the department of revenue under this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section.

(7) For purposes of this section, "person" has the same meaning as in RCW 82.04.030 and also includes the department of transportation.

**NEW SECTION. Sec. 2.** The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. Sec. 3. This act takes effect July 1, 2022.

Passed by the House February 26, 2022.

Passed by the Senate March 8, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 145

[Substitute House Bill 2050]

### MINORS—SUPPORT, TREATMENT, AND CONFINEMENT—PARENT PAYMENT OF COSTS

AN ACT Relating to repealing requirements for parent payment of the cost of their child's support, treatment, and confinement; amending RCW 43.20B.095; creating new sections; and repealing RCW 13.16.085 and 13.40.220.

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

NEW SECTION. Sec. 1. (1) The purpose of this act is to repeal RCW 13.40.220 and 13.16.085, also known as the "parent pay" statutes, which require parents to pay a percentage of their gross income for the cost of their child's support, treatment, and confinement.

(2) The parent pay statutes essentially operate as a legal financial obligation assessed on parents for their child's incarceration. These laws disproportionately impact poorer parents and represent a dated policy and philosophy that is not aligned with current racial equity and social justice reforms. Pursuing these parents is unfair and takes advantage of people at their most vulnerable, undermining government credibility and the integrity of the legal process. Placing these parents in debt may also result in unstable home environments, deterring successful youth reentry back into the community.

(3) The legislature finds that eliminating parents' financial obligation to pay for their child's incarceration will advance racial equity and help to support a successful transition to adulthood for young people in juvenile detention and in the department's care.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

(1) RCW 13.16.085 (Financial responsibility for cost of detention) and 1955 c 369 s 1; and

(2) RCW 13.40.220 (Costs of support, treatment, and confinement—Order—Contempt of court) and 2021 c 206 s 6, 2017 3rd sp.s. c 6 s 610, 1995 c 300 s 1, 1994 sp.s. c 7 s 529, 1993 c 466 s 1, & 1977 ex.s. c 291 s 76.

Sec. 3. RCW 43.20B.095 and 2019 c 470 s 10 are each amended to read as follows:

The department is authorized to establish and to recover debts for the department of children, youth, and families under this chapter (~~and under RCW 13.40.220~~) pursuant to a contract between the department of children, youth, and families and the department that is entered into in compliance with the interlocal cooperation act, chapter 39.34 RCW.

NEW SECTION. Sec. 4. (1) This act does not affect any moneys paid to the department of children, youth, and families or the courts before the effective date of this section. Any moneys already collected from a parent or other person

legally obligated to care for and support a child under RCW 13.40.220 or 13.16.085 before the effective date of this section will not be refunded to that person.

(2) On the effective date of this section:

(a) All pending actions or proceedings to recover debt owed by a parent or other person legally obligated to care for and support a child under RCW 13.40.220 or 13.16.085 shall be terminated with prejudice including, but not limited to, tax refund intercepts, federal and state benefit intercepts, wage garnishments, payment plans, and automatic bank account deductions;

(b) All outstanding debts or other obligations including, but not limited to, interest charges owed by a parent or other person legally obligated to care for and support a child under RCW 13.40.220 or 13.16.085 shall be canceled with prejudice, rendered null and void, and considered paid in full; and

(c) Any assignment of collection authority for debt owed under RCW 13.40.220 or 13.16.085 that was reported to a collection agency or out-of-state collection agency as defined in RCW 19.16.100 shall be recalled and terminated, and any outstanding debt shall be rendered null and void and considered paid in full.

(3) This act does not create a cause of action against the state of Washington.

**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, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the House February 15, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 146

[Substitute House Bill 2057]

### STATE PATROL WORKFORCE—DIVERSITY, EQUITY, AND INCLUSION

AN ACT Relating to strengthening diversity, equity, and inclusion in the state patrol workforce; adding a new section to chapter 43.06D 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 finds that:

(a) In 2021, the total Washington state patrol workforce was 84 percent white and 67 percent male, the field force workforce was 86 percent white and 86 percent male, and the managerial staff was as high as 93 percent white;

(b) A strong diversity, equity, and inclusion strategic recruitment and retention plan is necessary to:

(i) Provide the state patrol with the benefits of a diverse workforce, improving service to the public, increasing employee productivity, and providing new perspectives and innovative approaches to achieving the agency's mission of enhancing the safety and security of all people and communities; and

(ii) Fill vacancies with those who are from historically and currently marginalized communities;

(c) Public employment opportunities at the Washington state patrol should provide all commissioned and noncommissioned staff full access to the opportunities, power, and resources each needs in the staff person's career; and

(d) The transition to a culture that fosters workforce diversity, equity, and inclusion requires steadfast commitment over the long term.

(2) Therefore, the legislature intends to:

(a) Challenge the state patrol to change and adapt its culture to attract and retain a diverse workforce representative of those who have been historically and currently marginalized and is representative of the labor force as a whole;

(b) Establish effective legislative and executive oversight mechanisms to increase workforce parity by eliminating disparities in the state patrol's workforce;

(c) Increase accountability and transparency relating to the state patrol's progress in achieving equity in its workforce; and

(d) Provide technical assistance and support for the state patrol's diversity, equity, and inclusion efforts over the long term.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.06D RCW to read as follows:

(1) Consistent with its purpose of promoting access to equitable opportunities and resources to reduce disparities, the Washington state office of equity shall provide oversight for the development and ongoing implementation of the Washington state patrol's diversity, equity, and inclusion strategic recruitment and retention plan.

(2) To accomplish this purpose, the office of equity shall work with the department of enterprise services, which will run and oversee a competitive procurement process to select and hire an independent, expert consultant to:

(a) Collect benchmark demographic data on the composition of the current Washington state patrol workforce, including applicants in the recruitment process, people in trooper academy classes, and new hires across positions in the agency including, and not limited to, applicants referred for interview; applicants referred for hire; applicant to hire ratios; applicants referred for psychological testing; applicant pass to fail ratios; and turnover rate. In addition, this task must include comparative demographic data for other law enforcement training classes within the state;

(b) Conduct a study of the labor force available for the commissioned and noncommissioned staff of the state patrol, with a focus on the availability of black, indigenous, Latino, Asian, and other groups currently underrepresented in the state patrol workforce;

(c) Using the results of the labor force availability study and Washington state patrol recruitment and retention demographic benchmark data, establish goals for the demographic composition of the state patrol workforce and a plan for reaching the goals;

(d) Develop agency-specific process and outcome measures of performance, taking into consideration community feedback on whether the performance measures established accurately measure the effectiveness of agency programs and services in the communities served;

(e) Recommend effective agency programs and services to reduce disparities across the agency;



(f) Evaluate and report on progress in the implementation of the diversity, equity, and inclusion strategic recruitment and retention plan developed for the Washington state patrol in 2021;

(g) In coordination with the Washington state patrol, annually update the diversity, equity, and inclusion strategic recruitment and retention plan to reflect activities completed, new strategies, and next steps;

(h) Report biannually to the governor and appropriate committees of the legislature on the composition of the current Washington state patrol workforce compared to established benchmarks and goals; and

(i) Otherwise assist the office of equity in monitoring and reporting the Washington state patrol's implementation of the diversity, equity, and inclusion strategic recruitment and retention plan.

(3) The office is directed to complete the following work in accordance with RCW 43.06D.040:

(a) Provide technical assistance to the Washington state patrol regarding best practices to effectively foster an equitable, just, diverse workforce;

(b) Publish the Washington state patrol's diversity, equity, and inclusion strategic recruitment and retention plan on its performance dashboard;

(c) Report the Washington state patrol's performance on the office's performance dashboard, providing for a process for the Washington state patrol to respond to the report;

(d) Establish accountability procedures for the Washington state patrol, which may include conducting performance reviews related to state patrol compliance with office performance measures consistent with RCW 43.06D.040;

(e) Report annually to the governor and appropriate committees of the legislature on the Washington state patrol's compliance with developing its diversity, equity, and inclusion strategic recruitment and retention plan in accordance with the office of equity standards and the state patrol's progress made toward performance measures in its diversity, equity, and inclusion strategic recruitment and retention plan.

(4) This section expires June 30, 2032.

Passed by the House March 7, 2022.

Passed by the Senate March 2, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 147

[House Bill 2058]

### STATE PARKS AND RECREATION COMMISSION—HISTORIC FACILITIES—LEASEHOLD EXCISE TAX EXEMPTION

AN ACT Relating to the preservation and protection of facilities owned by the state parks and recreation commission that are listed on the Washington heritage register or the national register of historic places; amending RCW 82.29A.130; 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 82.29A.130 and 2019 c 335 s 1 are each amended to read as follows:

The following leasehold interests are exempt from taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040:

(1) All leasehold interests constituting a part of the operating properties of any public utility that is assessed and taxed as a public utility pursuant to chapter 84.12 RCW.

(2) All leasehold interests in facilities owned or used by a school, college or university which leasehold provides housing for students and which is otherwise exempt from taxation under provisions of RCW 84.36.010 and 84.36.050.

(3) All leasehold interests of subsidized housing where the fee ownership of such property is vested in the government of the United States, or the state of Washington or any political subdivision thereof but only if income qualification exists for such housing.

(4) All leasehold interests used for fair purposes of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture where the fee ownership of such property is vested in the government of the United States, the state of Washington or any of its political subdivisions. However, this exemption does not apply to the leasehold interest of any sublessee of such nonprofit fair association if such leasehold interest would be taxable if it were the primary lease.

(5) All leasehold interests in any property of any public entity used as a residence by an employee of that public entity who is required as a condition of employment to live in the publicly owned property.

(6) All leasehold interests held by enrolled Indians of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States and which are not subleased to other than to a lessee which would qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

(7) All leasehold interests in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States. However, this exemption applies only where it is determined that contract rent paid is greater than or equal to ninety percent of fair market rental, to be determined by the department of revenue using the same criteria used to establish taxable rent in RCW 82.29A.020(2)(g).

(8) All leasehold interests for which annual taxable rent is less than two hundred fifty dollars per year. For purposes of this subsection leasehold interests held by the same lessee in contiguous properties owned by the same lessor are deemed a single leasehold interest.

(9) All leasehold interests which give use or possession of the leased property for a continuous period of less than thirty days: PROVIDED, That for purposes of this subsection, successive leases or lease renewals giving substantially continuous use of possession of the same property to the same lessee are deemed a single leasehold interest: PROVIDED FURTHER, That no leasehold interest is deemed to give use or possession for a period of less than thirty days solely by virtue of the reservation by the public lessor of the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(10) All leasehold interests under month-to-month leases in residential units rented for residential purposes of the lessee pending destruction or removal for the purpose of constructing a public highway or building.

(11) All leasehold interests in any publicly owned real or personal property to the extent such leasehold interests arises solely by virtue of a contract for public improvements or work executed under the public works statutes of this state or of the United States between the public owner of the property and a contractor.

(12) All leasehold interests that give use or possession of state adult correctional facilities for the purposes of operating correctional industries under RCW 72.09.100.

(13) All leasehold interests used to provide organized and supervised recreational activities for persons with disabilities of all ages in a camp facility and for public recreational purposes by a nonprofit organization, association, or corporation that would be exempt from property tax under RCW 84.36.030(1) if it owned the property. If the publicly owned property is used for any taxable purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and 82.29A.040 must be imposed and must be apportioned accordingly.

(14) All leasehold interests in the public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy that is in a county with a population of over one million, that has a seating capacity of over forty thousand, and that is constructed on or after January 1, 1995. "Public or entertainment areas" include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include locker rooms or private offices exclusively used by the lessee.

(15) All leasehold interests in the public or entertainment areas of a stadium and exhibition center, as defined in RCW 36.102.010, that is constructed on or after January 1, 1998. For the purposes of this subsection, "public or entertainment areas" has the same meaning as in subsection (14) of this section, and includes exhibition areas.

(16) All leasehold interests in public facilities districts, as provided in chapter 36.100 or 35.57 RCW.

(17) All leasehold interests in property that is: (a) Owned by the United States government or a municipal corporation; (b) listed on any federal or state register of historical sites; and (c) wholly contained within a designated national historic reserve under 16 U.S.C. Sec. 461.

(18) All leasehold interests in the public or entertainment areas of an amphitheater if a private entity is responsible for one hundred percent of the cost of constructing the amphitheater which is not reimbursed by the public owner, both the public owner and the private lessee sponsor events at the facility on a regular basis, the lessee is responsible under the lease or agreement to operate

and maintain the facility, and the amphitheater has a seating capacity of over seventeen thousand reserved and general admission seats and is in a county that had a population of over three hundred fifty thousand, but less than four hundred twenty-five thousand when the amphitheater first opened to the public.

For the purposes of this subsection, "public or entertainment areas" include box offices or other ticket sales areas, entrance gates, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas including lawn seating areas and suites, stages, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include office areas used predominately by the lessee.

(19) All leasehold interests in real property used for the placement of military housing meeting the requirements of RCW 84.36.665.

(20) All leasehold interests in facilities owned or used by a community college or technical college, which leasehold interest provides:

(a) Food services for students, faculty, and staff;

(b) The operation of a bookstore on campus; or

(c) Maintenance, operational, or administrative services to the community college or technical college.

(21)(a) All leasehold interests in the public or entertainment areas of an arena if it:

(i) Has a seating capacity of more than two thousand;

(ii) Is located on city-owned land; and

(iii) Is owned by a city with a population over two hundred thousand within a county with a population of less than one million five hundred thousand.

(b) For the purposes of this subsection (21), "public or entertainment areas" has the same meaning as provided in subsection (18) of this section.

(22) All leasehold interests in facilities owned by the state parks and recreation commission that are listed on the national register of historic places or the Washington heritage register.

**NEW SECTION. Sec. 2.** (1) This section is the tax preference performance statement for the tax preferences contained in section 1, chapter . . . , Laws of 2022 (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 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 encourage contributions to historically significant places listed on the national register of historic places or the Washington heritage register.

(4) If a review finds that the statewide amount of contributions made by lessees of state parks and recreation commission-owned historical sites for the

purposes of maintaining or improving such sites has increased, 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. 3.** Section 1 of this act expires January 1, 2034.

**NEW SECTION. Sec. 4.** This act takes effect January 1, 2023.

Passed by the House March 10, 2022.

Passed by the Senate March 10, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 148

[Senate Bill 5002]

### STATE AUDITOR—VARIOUS PROVISIONS

AN ACT Relating to the state auditor's duties and procedures; amending RCW 43.09.185, 43.09.230, 43.09.420, 43.09.430, 43.09.440, and 43.09.455; amending 2012 c 164 s 709 (uncodified); repealing RCW 43.09.265, 43.09.435, 43.09.445, 43.09.450, 43.09.460, and 43.88.162; and repealing 2005 c 385 s 1 (uncodified).

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

**Sec. 1.** RCW 43.09.185 and 1995 c 301 s 8 are each amended to read as follows:

State agencies and local governments shall immediately report to the state auditor's office known or suspected loss of public funds or assets or other illegal activity. The state auditor must adopt policies as necessary to implement this section.

**Sec. 2.** RCW 43.09.230 and 2021 c 122 s 6 are each amended to read as follows:

(1) As used in this section:

(a) "Special purpose district" means every municipal and quasi-municipal corporation other than counties, cities, and towns. Such special purpose districts include, but are not limited to, water-sewer districts, fire protection districts, port districts, public utility districts, special districts as defined in RCW 85.38.010, lake and beach management districts, conservation districts, and irrigation districts.

(b) "Unauditable" means a special purpose district that the state auditor has determined to be incapable of being audited because the special purpose district has improperly maintained, failed to maintain, or failed to submit adequate accounts, records, files, or reports for an audit to be completed.

(2) The state auditor shall require from every local government financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by the state auditor, which shall be uniform for all accounts of the same class.

Such reports shall be prepared, certified, and filed with the state auditor within one hundred fifty days after the close of each fiscal year. The state auditor may allow local governments a thirty-day extension for filing annual fiscal reports if the governor has declared an emergency pursuant to RCW 43.06.210.

The reports shall contain accurate statements, in summarized form, of all collections made, or receipts received, by the officers from all sources; all accounts due the public treasury, but not collected; and all expenditures for every purpose, and by what authority authorized; and also: (a) A statement of all costs of ownership and operation, and of all income, of each and every public service industry owned and operated by a local government; (b) a statement of the entire public debt of every local government, to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, and the provisions made for the payment thereof; and (c) a classified statement of all receipts and expenditures by any public institution(~~;~~ and (d) a statement of all expenditures for labor relations consultants, with the identification of each consultant, compensation, and the terms and conditions of each agreement or arrangement.);) together with such other information as may be required by the state auditor.

The reports shall be certified as to their correctness by the state auditor, the state auditor's deputies, or other person legally authorized to make such certification.

Their substance shall be published in an annual volume of comparative statistics at the expense of the state as a public document.

(3)(a)(i) On or before December 31, 2020, and on or before December 31st of each year thereafter, the state auditor must search available records and notify the legislative authority of a county if any special purpose districts, located wholly or partially within the county, have been determined to be unauditabile. If the boundaries of the special purpose district are located within more than one county, the state auditor must notify all legislative authorities of the counties within which the boundaries of the special purpose district lie.

(ii) If a county has been notified as provided in (a)(i) of this subsection (3), the special purpose district and the county auditor, acting on behalf of the special purpose district, are prohibited from issuing any warrants against the funds of the special purpose district until the district has had its report certified by the state auditor.

(iii) Notwithstanding (a)(ii) of this subsection (3), a county may authorize the special purpose district and the county auditor to issue warrants against the funds of the special purpose district:

(A) In order to prevent the discontinuation or interruption of any district services;

(B) For emergency or public health purposes; or

(C) To allow the district to carry out any district duties or responsibilities.

(b)(i) On or before December 31, 2020, and on or before December 31st of each year thereafter, the state auditor must search available records and notify the state treasurer if any special purpose districts have been determined to be unauditabile.

(ii) If the state treasurer has been notified as provided in (b)(i) of this subsection (3), the state treasurer may not distribute any local sales and use taxes imposed by a special purpose district to the district until the district has had its report certified by the state auditor.

**Sec. 3.** RCW 43.09.420 and 1993 c 216 s 1 are each amended to read as follows:

As part of the routine audits of state agencies, the state auditor shall audit all revolving funds, local funds, and other state funds and state accounts that are not managed by or in the care of the state treasurer and that are under the control of state agencies, including but not limited to state departments, boards, and commissions. In conducting the audits of these funds and accounts, the auditor shall examine revenues and expenditures or assets and liabilities, accounting methods and procedures, and recordkeeping practices. ~~((In addition to including the results of these examinations as part of the routine audits of the agencies, the auditor shall report to the legislature on the status of all such funds and accounts that have been examined during the preceding biennium and any recommendations for their improved financial management. Such a report shall be filed with the legislature within five months of the end of each biennium regarding the funds and accounts audited during the biennium. The first such report shall be filed by December 1, 1993, regarding any such funds and accounts audited during the 1991-93 biennium.))~~

**Sec. 4.** RCW 43.09.430 and 2005 c 385 s 2 are each amended to read as follows:

For purposes of ~~((RCW 43.09.435 through 43.09.460:~~

(1) ~~"Board" means the citizen advisory board created in RCW 43.09.435.~~

(2) ~~"Draft work plan" means the work plan for conducting performance audits of state agencies proposed by the board and state auditor after the statewide performance review.~~

(3) ~~"Final performance audit report" means a written document jointly released by the citizen advisory board and the state auditor that includes the findings and comments from the preliminary performance audit report.~~

(4) ~~"Final work plan" means the work plan for conducting performance audits of state agencies adopted by the board and state auditor.~~

(5) ~~"Performance audit" means an objective and systematic assessment of a state agency or any of its programs, functions, or activities by an independent evaluator in order to help public officials improve efficiency, effectiveness, and accountability. Performance audits include economy and efficiency audits and program audits.~~

(6) ~~"Preliminary")~~ this chapter, "preliminary performance audit report" means a written document prepared after the completion of a performance audit to be submitted for comment before the final performance audit report. The preliminary performance audit report must contain the audit findings and any proposed recommendations to improve the efficiency, effectiveness, or accountability of the state agency being audited.

~~((7) "State agency" or "agency" means a state agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education. "State agency" includes all offices of executive branch state government elected officials.))~~

**Sec. 5.** RCW 43.09.440 and 2012 c 229 s 817 are each amended to read as follows:

~~((1) The board and the state auditor shall collaborate with the joint legislative audit and review committee regarding performance audits of state government.~~

~~(a) The board shall establish criteria for performance audits consistent with the criteria and standards followed by the joint legislative audit and review committee. This criteria shall include, at a minimum, the auditing standards of the United States government accountability office, as well as legislative mandates and performance objectives established by state agencies and the legislature. Mandates include, but are not limited to, agency strategies, timelines, program objectives, and mission and goals as required in RCW 43.88.090.~~

~~(b) Using the criteria developed in (a) of this subsection, the state auditor shall contract for a statewide performance review to be completed as expeditiously as possible as a preliminary to a draft work plan for conducting performance audits. The board and the state auditor shall develop a schedule and common methodology for conducting these reviews. The purpose of these performance reviews is to identify those agencies, programs, functions, or activities most likely to benefit from performance audits and to identify likely areas warranting early review, taking into account prior performance audits, if any, and prior fiscal audits.~~

~~(c) The board and the state auditor shall develop the draft work plan for performance audits based on input from citizens, state employees, including frontline employees, state managers, chairs and ranking members of appropriate legislative committees, the joint legislative audit and review committee, public officials, and others. The draft work plan may include a list of agencies, programs, or systems to be audited on a timeline decided by the board and the state auditor based on a number of factors including risk, importance, and citizen concerns. When putting together the draft work plan, there should be consideration of all audits and reports already required. On average, audits shall be designed to be completed as expeditiously as possible.~~

~~(d) Before adopting the final work plan, the board shall consult with the legislative auditor and other appropriate oversight and audit entities to coordinate work plans and avoid duplication of effort in their planned performance audits of state government agencies. The board shall defer to the joint legislative audit and review committee work plan if a similar audit is included on both work plans for auditing.~~

~~(e) The state auditor shall contract out for performance audits. In conducting the audits, agency frontline employees and internal auditors should be involved.~~

~~(f) All audits must include consideration of reports prepared by other government oversight entities.~~

~~(g) The audits may include:~~

~~(i) Identification of programs and services that can be eliminated, reduced, consolidated, or enhanced;~~

~~(ii) Identification of funding sources to the state agency, to programs, and to services that can be eliminated, reduced, consolidated, or enhanced;~~

~~(iii) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;~~

~~(iv) Analysis and recommendations for pooling information technology systems used within the state agency, and evaluation of information processing and telecommunications policy, organization, and management;~~

~~(v) Analysis of the roles and functions of the state agency, its programs, and its services and their compliance with statutory authority and recommendations~~



for eliminating or changing those roles and functions and ensuring compliance with statutory authority;

~~(vi) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the agency carry out reasonably and properly those functions vested in the agency by statute;~~

~~(vii) Verification of the reliability and validity of agency performance data, self assessments, and performance measurement systems as required under RCW 43.88.090;~~

~~(viii) Identification of potential cost savings in the state agency, its programs, and its services;~~

~~(ix) Identification and recognition of best practices;~~

~~(x) Evaluation of planning, budgeting, and program evaluation policies and practices;~~

~~(xi) Evaluation of personnel systems operation and management;~~

~~(xii) Evaluation of state purchasing operations and management policies and practices; and~~

~~(xiii) Evaluation of organizational structure and staffing levels, particularly in terms of the ratio of managers and supervisors to nonmanagement personnel.~~

~~(h)) The state auditor must solicit comments on preliminary performance audit reports from the audited state agency, the office of the governor, and the office of financial management((, the board, the chairs and ranking members of appropriate legislative committees, and the joint legislative audit and review committee for comment)). Comments must be received within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the state auditor. All comments shall be incorporated into the final performance audit report. The final performance audit report shall include the objectives, scope, and methodology; the audit results, including findings and recommendations; conclusions; and identification of best practices.~~

~~((i) The board and the state auditor shall jointly release final performance audit reports to the governor, the citizens of Washington, the joint legislative audit and review committee, and the appropriate standing legislative committees. Final performance audit reports shall be posted on the internet.~~

~~(j) For institutions of higher education, performance audits shall not duplicate, and where applicable, shall make maximum use of existing audit records, accreditation reviews, and performance measures required by the office of financial management and nationally or regionally recognized accreditation organizations including accreditation of hospitals licensed under chapter 70.41 RCW and ambulatory care facilities.~~

~~(2) The citizen board created under RCW 44.75.030 shall be responsible for performance audits for transportation related agencies as defined under RCW 44.75.020.)~~

**Sec. 6.** RCW 43.09.455 and 2005 c 385 s 9 are each amended to read as follows:

The audited agency is responsible for follow-up and corrective action on all performance audit findings and recommendations. The audited agency's plan for addressing each audit finding and recommendation shall be included in the final audit report. The plan shall provide the name of the contact person responsible for each action, the action planned, and the anticipated completion date. If the audited agency does not agree with the audit findings and recommendations or

believes action is not required, then the action plan shall include an explanation and specific reasons.

For agencies under the authority of the governor, the governor may require periodic progress reports from the audited agency until all resolution has occurred.

For agencies under the authority of an elected official other than the governor, the appropriate elected official may require periodic reports of the action taken by the audited agency until all resolution has occurred.

~~((The board may request status reports on specific audits or findings.))~~

**Sec. 7.** 2012 c 164 s 709 (uncodified) is amended to read as follows:

The state auditor shall conduct ~~((performance))~~ audits of the long-term in-home care program after consultation with affected disability and aging stakeholder groups. The first audit must be completed within twelve months after January 7, 2012, and must be completed on a biennial basis thereafter. As part of this auditing process, the state shall hire five additional fraud investigators to ensure that clients receiving services at taxpayers' expense are medically and financially qualified to receive the services and are actually receiving the services. An audit conducted by the state auditor under the authority of RCW 43.09.020 and 43.09.050(2) may satisfy this requirement, provided that a performance audit of the program was completed in the preceding biennium.

NEW SECTION. **Sec. 8.** The following acts or parts of acts are each repealed:

- (1) 2005 c 385 s 1 (uncodified);
- (2) RCW 43.09.265 (Local government accounting—Review of tax levies of local governments) and 1995 c 301 s 16 & 1979 ex.s. c 218 s 7;
- (3) RCW 43.09.435 (Performance audits—Citizen advisory board) and 2005 c 385 s 3;
- (4) RCW 43.09.445 (Performance audits—Local jurisdictions) and 2005 c 385 s 6;
- (5) RCW 43.09.450 (Performance audits—Audit of performance audit program) and 2005 c 385 s 8;
- (6) RCW 43.09.460 (Performance audits—Appropriation—Budget request) and 2005 c 385 s 11; and
- (7) RCW 43.88.162 (State auditor's powers and duties—Performance audits) and 2005 c 385 s 7.

Passed by the Senate March 7, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 149

[Second Substitute Senate Bill 5085]

### ELECTRIC MOTORCYCLES—ALTERNATIVE FUEL VEHICLE FEES

AN ACT Relating to modifying the alternative fuel vehicle fee for electric motorcycles; amending RCW 46.17.323; and providing an effective date.

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

**Sec. 1.** RCW 46.17.323 and 2015 3rd sp.s. c 44 s 203 are each amended to read as follows:

(1) Before accepting an application for an annual vehicle registration renewal for a vehicle that both (a) uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and (b) is capable of traveling at least (~~(thirty)~~) 30 miles using only battery power, except for electric motorcycles, the department, county auditor or other agent, or subagent appointed by the director must require the applicant to pay a (~~(one hundred dollar)~~) \$100 fee in addition to any other fees and taxes required by law. The (~~(one hundred dollar)~~) \$100 fee is due only at the time of annual registration renewal.

(2) This section only applies to a vehicle that is designed to have the capability to drive at a speed of more than (~~(thirty five)~~) 35 miles per hour.

(3)(a) The fee under this section is imposed to provide funds to mitigate the impact of vehicles on state roads and highways and for the purpose of evaluating the feasibility of transitioning from a revenue collection system based on fuel taxes to a road user assessment system, and is separate and distinct from other vehicle license fees. Proceeds from the fee must be used for highway purposes, and must be deposited in the motor vehicle fund created in RCW 46.68.070, subject to (b) of this subsection.

(b) If in any year the amount of proceeds from the fee collected under this section exceeds (~~(one million dollars)~~) \$1,000,000, the excess amount over (~~(one million dollars)~~) \$1,000,000 must be deposited as follows:

(i) Seventy percent to the motor vehicle fund created in RCW 46.68.070;

(ii) Fifteen percent to the transportation improvement account created in RCW 47.26.084; and

(iii) Fifteen percent to the rural arterial trust account created in RCW 36.79.020.

(4)(a) In addition to the fee established in subsection (1) of this section, before accepting an application for an annual vehicle registration renewal for a vehicle that both (i) uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and (ii) is capable of traveling at least (~~(thirty)~~) 30 miles using only battery power, except for electric motorcycles, the department, county auditor or other agent, or subagent appointed by the director must require the applicant to pay a (~~(fifty dollar)~~) \$50 fee.

(b) The fee required under (a) of this subsection must be distributed as follows:

(i) The first (~~(one million dollars)~~) \$1,000,000 raised by the fee must be deposited into the multimodal transportation account created in RCW 47.66.070; and

(ii) Any remaining amounts must be deposited into the motor vehicle fund created in RCW 46.68.070.

(5) Beginning November 1, 2022, before accepting an application for an annual vehicle registration renewal for an electric motorcycle that uses propulsion units powered solely by electricity, the department, county auditor or other agent, or subagent appointed by the director must require the applicant to pay a \$30 fee in addition to any other fees and taxes required by law. The \$30 fee is due only at the time of annual registration renewal.

(6) The fees collected pursuant to subsection (5) of this section shall be deposited into the motor vehicle fund created in RCW 46.68.070.

(7) This section applies to annual vehicle registration renewals until the effective date of enacted legislation that imposes a vehicle miles traveled fee or tax.

**NEW SECTION. Sec. 2.** This act takes effect November 1, 2022.

Passed by the Senate February 25, 2022.

Passed by the House March 8, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 150

[Senate Bill 5196]

### LEGISLATURE—SPECIAL SESSIONS—PROCEDURE TO CONVENE

AN ACT Relating to how the legislature may convene a special session; adding a new section to chapter 44.04 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** Article II, section 12 of the state Constitution provides that special legislative sessions may be convened by resolution of the legislature through an affirmative vote in both chambers of two-thirds of the members elected. Such vote may take place either during the legislative session or "during any interim between sessions in accordance with such procedures as the legislature may provide by law or resolution." The legislature finds that in order to act swiftly and effectively when the need for a special session arises during an interim, as well as preserve continuity of process, the procedures for calling itself into special session should be memorialized in law.

**NEW SECTION. Sec. 2.** A new section is added to chapter 44.04 RCW to read as follows:

The legislature may convene a special legislative session as follows:

(1) A resolution calling for convening a special legislative session shall set forth the date and time for convening the session, the duration of the session which shall not exceed 30 days, together with the purpose or purposes for which the session is called. Members of the house of representatives or senate may present a proposed resolution for the convening of a special legislative session to the committee on rules of their respective houses.

(2) The authority to place a resolution convening a special legislative session before the legislature is vested in the committee on rules of the house of representatives and the committee on rules of the senate.

(3) Upon a majority vote of both the committee on rules of the house of representatives and the committee on rules of the senate in favor of a resolution convening a special legislative session, a vote of the house of representatives and senate shall be taken on such resolution.

(4) The chief clerk of the house of representatives and the secretary of the senate shall conduct the vote on the resolution by written ballot of the members of their respective houses under such procedures as may be ordered by the committee on rules of their house. The results of such vote shall be transmitted to the members of the legislature and shall be a public record and shall be

entered upon the journal of the house of representatives and senate at the convening of the next legislative session.

(5) If two-thirds of the members elected or appointed to each house vote in favor of the resolution, then a special legislative session shall be convened in accordance with the resolution.

Passed by the Senate January 19, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 151

[Senate Bill 5508]

### INSURANCE GUARANTY FUND—VARIOUS PROVISIONS

AN ACT Relating to the insurance guaranty fund; and amending RCW 48.32A.015, 48.32A.025, 48.32A.045, 48.32A.055, 48.32A.065, 48.32A.075, 48.32A.085, 48.32A.095, 48.32A.115, 48.32A.135, 48.32A.175, and 48.32A.185.

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

**Sec. 1.** RCW 48.32A.015 and 2001 c 50 s 2 are each amended to read as follows:

(1) The purpose of this chapter is to protect, subject to certain limitations, the persons specified in RCW 48.32A.025(1) against failure in the performance of contractual obligations, under life (~~and~~) insurance, disability insurance (~~and policies~~), health benefit plans, and certificates of coverage, and annuity policies, plans, or contracts specified in RCW 48.32A.025(2), because of the impairment or insolvency of the member insurer that issued the policies, plans, or contracts.

(2) To provide this protection, an association of member insurers is created to pay benefits and to continue coverages as limited by this chapter, and members of the association are subject to assessment to provide funds to carry out the purpose of this chapter.

**Sec. 2.** RCW 48.32A.025 and 2001 c 50 s 3 are each amended to read as follows:

(1) This chapter provides coverage for the policies and contracts specified in subsection (2) of this section as follows:

(a) To persons who, regardless of where they reside, except for nonresident certificate holders or enrollees under group policies or contracts, are the beneficiaries, assignees, or payees, including health care providers and facilities rendering services covered under health benefit plans, policies, or certificates of coverage, of the persons covered under (b) of this subsection;

(b) To persons who are owners of or certificate holders or enrollees under the policies or contracts, other than unallocated annuity contracts and structured settlement annuities, and in each case who:

(i) Are residents; or

(ii) Are not residents, but only under all of the following conditions:

(A) The member insurer that issued the policies or contracts is domiciled in this state;

(B) The states in which the persons reside have associations similar to the association created by this chapter; and

(C) The persons are not eligible for coverage by an association in any other state due to the fact that the insurer, health care service contractor, or health maintenance organization was not licensed in the state at the time specified in the state's guaranty association law;

(c) For unallocated annuity contracts specified in subsection (2) of this section, (a) and (b) of this subsection do not apply, and this chapter, except as provided in (e) and (f) of this subsection, does provide coverage to:

(i) Persons who are the owners of the unallocated annuity contracts if the contracts are issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in this state; and

(ii) Persons who are owners of unallocated annuity contracts issued to or in connection with government lotteries if the owners are residents;

(d) For structured settlement annuities specified in subsection (2) of this section, (a) and (b) of this subsection do not apply, and this chapter, except as provided in (e) and (f) of this subsection, does provide coverage to a person who is a payee under a structured settlement annuity, or beneficiary of a payee if the payee is deceased, if the payee:

(i) Is a resident, regardless of where the contract owner resides; or

(ii) Is not a resident, but only under both of the following conditions:

(A)(I) The contract owner of the structured settlement annuity is a resident;

or

(II) The contract owner of the structured settlement annuity is not a resident, but the insurer that issued the structured settlement annuity is domiciled in this state; and the state in which the contract owner resides has an association similar to the association created by this chapter; and

(B) Neither the payee, nor beneficiary, nor enrollee, nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides;

(e) This chapter does not provide coverage to:

(i) A person who is a payee, or beneficiary, of a contract owner resident of this state, if the payee, or beneficiary, is afforded any coverage by the association of another state; ((e)(f))

(ii) A person covered under (c) of this subsection, if any coverage is provided by the association of another state to the person; or

(iii) A person who acquires rights to receive payments through a structured settlement factoring transaction as defined in 26 U.S.C. Sec. 5891(c)(3)(A), regardless of whether the transaction occurred before or after such section became effective; and

(f) This chapter is intended to provide coverage to a person who is a resident of this state and, in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, the person shall not be provided coverage under this chapter. In determining the application of this subsection (1)(f) in situations where a person could be covered by the association of more than one state, whether as an owner, payee, beneficiary, enrollee, or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by only one association.

(2)(a) This chapter provides coverage to the persons specified in subsection (1) of this section for policies, plans, or contracts of direct, nongroup life, disability, health benefit, or ((annuity policies or contracts)) annuities and supplemental contracts to any of these, for certificates under direct group policies and contracts, and for unallocated annuity contracts issued by member insurers, except as limited by this chapter. Annuity contracts and certificates under group annuity contracts include but are not limited to guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, allocated funding agreements, structured settlement annuities, annuities issued to or in connection with government lotteries, and any immediate or deferred annuity contracts. However, any annuity contracts that are unallocated annuity contracts are subject to the specific provisions in this chapter for unallocated annuity contracts.

(b) ~~((This))~~ Except as provided in (c) of this subsection, this chapter does not provide coverage for:

(i) A portion of a policy or contract not guaranteed by the member insurer, or under which the risk is borne by the policy or contract owner;

(ii) A policy or contract of reinsurance, unless assumption certificates have been issued pursuant to the reinsurance policy or contract;

(iii) A portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

(A) Averaged over the period of four years prior to the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds the rate of interest determined by subtracting two percentage points from Moody's corporate bond yield average averaged for that same four-year period or for such lesser period if the policy or contract was issued less than four years before the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier; and

(B) On and after the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds the rate of interest determined by subtracting three percentage points from Moody's corporate bond yield average as most recently available;

(iv) A portion of a policy or contract issued to a plan or program of an employer, association, or other person to provide life, disability, health, or annuity benefits to its employees, members, or others, to the extent that the plan or program is self-funded or uninsured, including but not limited to benefits payable by an employer, association, or other person under:

(A) A multiple employer welfare arrangement as defined in 29 U.S.C. Sec. ~~((4144))~~ 1002;

(B) A minimum premium group insurance plan;

(C) A stop-loss group insurance plan; or

(D) An administrative services only contract;

(v) A portion of a policy or contract to the extent that it provides for:

(A) Dividends or experience rating credits;

(B) Voting rights; or

(C) Payment of any fees or allowances to any person, including the policy or contract owner, in connection with the service to or administration of the policy or contract;

(vi) A policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue the policy or contract in this state;

(vii) An unallocated annuity contract issued to or in connection with a benefit plan protected under the federal pension benefit guaranty corporation, regardless of whether the federal pension benefit guaranty corporation has yet become liable to make any payments with respect to the benefit plan;

(viii) A portion of an unallocated annuity contract that is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan or a government lottery;

(ix) A portion of a policy or contract to the extent that the assessments required by RCW 48.32A.085 with respect to the policy or contract are preempted by federal or state law;

(x) An obligation that does not arise under the express written terms of the policy or contract issued by the member insurer to the enrollee, contract owner, certificate holder, or policy owner, including without limitation:

(A) Claims based on marketing materials;

(B) Claims based on side letters, riders, or other documents that were issued by the member insurer without meeting applicable policy or contract form filing or approval requirements;

(C) Misrepresentations of or regarding policy or contract benefits;

(D) Extra-contractual claims; or

(E) A claim for penalties or consequential or incidental damages;

(xi) A contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer; ((~~or~~))

(xii) A portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this subsection (2)(b)(xii), the interest or change in value determined by using the procedures defined in the policy or contract will be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture;

(xiii) A policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to parts C and D of subchapter XVIII, chapter 7 of Title 42, United States Code (commonly known as medicare parts C and D) or subchapter XIX, chapter 7 of Title 42, United States Code (commonly



known as medicaid), and any regulations issued pursuant thereto, or chapter 74.09 RCW and any regulations issued pursuant thereto; or

(xiv) Structured settlement annuity benefits to which a payee or beneficiary has transferred his or her rights in a structured settlement factoring transaction as defined in 26 U.S.C. Sec. 5891(c)(3)(A), regardless of whether the transaction occurred before or after such section became effective.

(c) The exclusion from coverage referenced in (b)(iii) of this subsection does not apply to any portion of a policy or contract, including a rider, that provides long-term care or any other health benefits.

(3) The benefits that the association may become obligated to cover shall in no event exceed the lesser of:

(a) The contractual obligations for which the member insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(b)(i) With respect to one life, regardless of the number of policies or contracts:

(A) Five hundred thousand dollars in life insurance death benefits, but not more than five hundred thousand dollars in net cash surrender and net cash withdrawal values for life insurance;

(B) In disability insurance and health benefit plan benefits:

(I) Five hundred thousand dollars for coverages not defined as disability income insurance or (~~basic hospital, medical, and surgical insurance or major medical insurance~~) health benefit plans including any net cash surrender and net cash withdrawal values;

(II) Five hundred thousand dollars for disability income insurance;

(III) Five hundred thousand dollars for (~~basic hospital medical and surgical insurance or major medical insurance~~) health benefit plans;

(IV) \$500,000 for long-term care insurance; or

(C) Five hundred thousand dollars in the present value of annuity benefits, including net cash surrender and net cash withdrawal values, except as provided in (b)(ii), (iii), and (v) of this subsection (3)((b));

(ii) With respect to each individual participating in a governmental retirement benefit plan established under section 401, 403(b), or 457 of the United States Internal Revenue Code covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased, in the aggregate, one hundred thousand dollars in present value annuity benefits, including net cash surrender and net cash withdrawal values;

(iii) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, five hundred thousand dollars in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values, if any;

(iv) However, in no event shall the association be obligated to cover more than: (A) An aggregate of five hundred thousand dollars in benefits with respect to any one life under (b)(i), (ii), ~~(and)~~ (iii), and (iv) of this subsection (3)((b)) except with respect to benefits for (~~basic hospital, medical, and surgical insurance and major medical insurance~~) health benefit plans under (b)(i)(B) of this subsection (3)((b)), in which case the aggregate liability of the association shall not exceed five hundred thousand dollars with respect to any one individual; or (B) with respect to one owner of multiple nongroup policies of life insurance, whether the policy or contract owner is an individual, firm,

corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, more than five million dollars in benefits, regardless of the number of policies and contracts held by the owner;

(v) With respect to either: (A) One contract owner provided coverage under subsection (1)(d)(ii) of this section; or (B) one plan sponsor whose plans own directly or in trust one or more unallocated annuity contracts not included in (b)(ii) of this subsection (3)~~((b))~~, five million dollars in benefits, irrespective of the number of contracts with respect to the contract owner or plan sponsor. However, in the case where one or more unallocated annuity contracts are covered contracts under this chapter and are owned by a trust or other entity for the benefit of two or more plan sponsors, coverage shall be afforded by the association if the largest interest in the trust or entity owning the contract or contracts is held by a plan sponsor whose principal place of business is in this state and in no event shall the association be obligated to cover more than five million dollars in benefits with respect to all these unallocated contracts; ~~((#))~~

(vi) The limitations set forth in this subsection are limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to its subrogation and assignment rights; or

(vii) For purposes of this chapter, benefits provided by a long-term care rider to a life insurance policy or annuity contract must be considered the same type of benefits as the base life insurance policy or annuity contract to which it relates.

(4) In performing its obligations to provide coverage under RCW 48.32A.075, the association is not required to guarantee, assume, reinsure, reissue, or perform, or cause to be guaranteed, assumed, reinsured, reissued, or performed, the contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

**Sec. 3.** RCW 48.32A.045 and 2001 c 50 s 5 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 either of the two accounts created under RCW 48.32A.055.

(2) "Association" means the Washington life and disability insurance guaranty association created under RCW 48.32A.055.

(3) "Authorized assessment" or the term "authorized" when used in the context of assessments means a resolution by the board of directors has been passed whereby an assessment will be called immediately or in the future from member insurers for a specified amount. An assessment is authorized when the resolution is passed.

(4) "Benefit plan" means a specific employee, union, or association of natural persons benefit plan issued pursuant to the requirements of chapter 48.20 RCW.

(5) "Called assessment" or the term "called" when used in the context of assessments means that a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the association to member insurers.

(6) "Commissioner" means the insurance commissioner of this state.

(7) "Contractual obligation" means an obligation under a policy or contract or certificate under a group policy or contract, or portion thereof for which coverage is provided under RCW 48.32A.025.

(8) "Covered policy" or "covered contract" means a policy or contract or portion of a policy or contract for which coverage is provided under RCW 48.32A.025.

(9) "Extra-contractual claims" includes, for example, claims relating to bad faith in the payment of claims, punitive or exemplary damages, or attorneys' fees and costs.

(10) "Health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services, except the following:

(a) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(b) Coverage supplemental to the coverage provided under chapter 55 of Title 10 of the United States Code;

(c) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property or casualty liability insurance policy, such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage;

(k) Plans deemed by the commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the commissioner;

(l) Civilian health and medical program for the veterans affairs administration (CHAMPVA); and

(m) Long-term care insurance as defined under chapter 48.83 or 48.84 RCW, or benefits for home health care, community-based care, or any combination thereof.

(11) "Impaired insurer" means a member insurer which, after July 22, 2001, is not an insolvent insurer, and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

~~((11))~~ (12) "Insolvent insurer" means a member insurer which, after July 22, 2001, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

~~((12))~~ (13) "Member insurer" means an insurer, health care service contractor, or health maintenance organization licensed, or that holds a certificate of authority, or a certificate of registration, to transact in this state any kind of business related to insurance or a health benefit plan for which coverage is provided under RCW 48.32A.025, and includes an insurer, health care service contractor, or health maintenance organization whose license, certificate of registration, or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include:

(a) ~~((A))~~ A health care service contractor, whether profit or nonprofit;

~~((b))~~ A health maintenance organization;

~~((c))~~ A fraternal benefit society;

~~((d))~~ (b) A mandatory state pooling plan;

~~((e))~~ (c) A mutual assessment company or other person that operates on an assessment basis;

~~((f))~~ (d) An insurance exchange;

~~((g))~~ (e) An organization that has a certificate or license limited to the issuance of charitable gift annuities under RCW 48.38.010;

(f) A nonrisk-bearing hospital or medical service organization, whether for profit or not for profit;

(g) A multiple employer welfare arrangement under chapter 48.125 RCW;  
or

(h) An entity similar to (a) through (g) of this subsection.

~~((13))~~ (14) "Moody's corporate bond yield average" means the monthly average corporates as published by Moody's investors service, inc., or any successor thereto.

~~((14))~~ (15) "Owner" of a policy or contract and "policy holder," "policy owner," and "contract owner" mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the member insurer. "Owner," "policy holder," "contract owner," and "policy owner" do not include persons with a mere beneficial interest in a policy or contract.

~~((15))~~ (16) "Person" means an individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization.

~~((16))~~ (17) "Plan sponsor" means:

(a) The employer in the case of a benefit plan established or maintained by a single employer;

(b) The employee organization in the case of a benefit plan established or maintained by an employee organization; or

(c) In the case of a benefit plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

~~((17))~~ (18) "Premiums" means amounts or considerations, by whatever name called, received on covered policies or contracts less returned premiums, considerations, and deposits and less dividends and experience credits. "Premiums" does not include amounts or considerations received for policies or contracts or for the portions of policies or contracts for which coverage is not provided under RCW 48.32A.025(2), except that assessable premium shall not be reduced on account of RCW 48.32A.025(2)(b)(iii) relating to interest limitations and RCW 48.32A.025(3)(b) relating to limitations with respect to one individual, one participant, and one policy or contract owner. "Premiums" does not include:

(a) Premiums in excess of five million dollars on an unallocated annuity contract not issued under a governmental retirement benefit plan, or its trustee, established under section 401, 403(b), or 457 of the United States Internal Revenue Code; or

(b) With respect to multiple nongroup policies of life insurance owned by one owner, whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of five million dollars with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

~~((18))~~ (19)(a) "Principal place of business" of a plan sponsor or a person other than a natural person means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise that function, determined by the association in its reasonable judgment by considering the following factors:

(i) The state in which the primary executive and administrative headquarters of the entity is located;

(ii) The state in which the principal office of the chief executive officer of the entity is located;

(iii) The state in which the board of directors, or similar governing person or persons, of the entity conducts the majority of its meetings;

(iv) The state in which the executive or management committee of the board of directors, or similar governing person or persons, of the entity conducts the majority of its meetings;

(v) The state from which the management of the overall operations of the entity is directed; and

(vi) In the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the factors in (a)(i) through (v) of this subsection.

However, in the case of a plan sponsor, if more than fifty percent of the participants in the benefit plan are employed in a single state, that state is the principal place of business of the plan sponsor.

(b) The principal place of business of a plan sponsor of a benefit plan described in subsection ~~((16))~~ (17)(c) of this section is the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, is

the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question.

~~((19))~~ (20) "Receivership court" means the court in the insolvent or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the member insurer.

~~((20))~~ (21) "Resident" means a person to whom a contractual obligation is owed and who resides in this state on the date of entry of a court order that determines a member insurer to be an impaired insurer or a court order that determines a member insurer to be an insolvent insurer, whichever occurs first. A person may be a resident of only one state, which in the case of a person other than a natural person is its principal place of business. Citizens of the United States that are either (a) residents of foreign countries, or (b) residents of United States possessions, territories, or protectorates that do not have an association similar to the association created by this chapter, are residents of the state of domicile of the member insurer that issued the policies or contracts.

~~((21))~~ (22) "Structured settlement annuity" means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

~~((22))~~ (23) "State" means a state, the District of Columbia, Puerto Rico, and a United States possession, territory, or protectorate.

~~((23))~~ (24) "Supplemental contract" means a written agreement entered into for the distribution of proceeds under a life, disability, or annuity policy or contract.

~~((24))~~ (25) "Unallocated annuity contract" means an annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by ~~((a))~~ a member insurer under the contract or certificate.

**Sec. 4.** RCW 48.32A.055 and 2001 c 50 s 6 are each amended to read as follows:

(1) There is created a nonprofit unincorporated legal entity to be known as the Washington life and disability insurance guaranty association which is composed of the commissioner ex officio and each member insurer. All member insurers must be and remain members of the association as a condition of their authority to transact the business of insurance, health care service contractor business, or health maintenance organization business in this state. The association shall perform its functions under the plan of operation established and approved under RCW 48.32A.095 and shall exercise its powers through a board of directors established under RCW 48.32A.065. For purposes of administration and assessment, the association shall maintain two accounts:

(a) The life insurance and annuity account which includes the following subaccounts:

(i) Life insurance account;

(ii) Annuity account which includes annuity contracts owned by a governmental retirement plan, or its trustee, established under section 401, 403(b), or 457 of the United States Internal Revenue Code, but otherwise excludes unallocated annuities; and

(iii) Unallocated annuity account, which excludes contracts owned by a governmental retirement benefit plan, or its trustee, established under section 401, 403(b), or 457 of the United States Internal Revenue Code; and

(b) The disability insurance account, which includes health benefit plans, disability benefit policies and contracts, and long- term care policies and contracts.

(2) The association is under the immediate supervision of the commissioner and is subject to the applicable provisions of the insurance laws of this state. Meetings or records of the association may be opened to the public upon majority vote of the board of directors of the association.

**Sec. 5.** RCW 48.32A.065 and 2001 c 50 s 7 are each amended to read as follows:

(1) The board of directors of the association consists of the commissioner ex officio and not less than ~~((five))~~ seven nor more than ~~((nine))~~ 11 member insurers serving terms as established in the plan of operation. The insurer members of the board are selected by member insurers subject to the approval of the commissioner.

Vacancies on the board are filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner.

(2) In approving selections or in appointing members to the board, the commissioner shall consider, among other things, whether all member insurers are fairly represented.

(3) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors but members of the board are not otherwise compensated by the association for their services.

**Sec. 6.** RCW 48.32A.075 and 2001 c 50 s 8 are each amended to read as follows:

(1) If a member insurer is an impaired insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer and that are approved by the commissioner:

(a) ~~((Guaranty))~~ Guarantee, assume, reissue, or reinsure, or cause to be guaranteed, reissued, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer; or

(b) Provide such moneys, pledges, loans, notes, guarantees, or other means as are proper to effectuate (a) of this subsection and assure payment of the contractual obligations of the impaired insurer pending action under (a) of this subsection.

(2) If a member insurer is an insolvent insurer, the association shall, in its discretion, either:

(a)(i)(A) ~~((Guaranty))~~ Guarantee, assume, reissue, or reinsure, or cause to be guaranteed, assumed, reissued, or reinsured, the policies or contracts of the insolvent insurer; or

(B) Assure payment of the contractual obligations of the insolvent insurer; and

(ii) Provide moneys, pledges, loans, notes, guarantees, or other means reasonably necessary to discharge the association's duties; or

(b) Provide benefits and coverages in accordance with the following provisions:

(i) With respect to (~~(life and disability insurance)~~) policies and (~~(annuities)~~) ~~contracts~~, assure payment of benefits (~~(for premiums identical to the premiums and benefits, except for terms of conversion and renewability,)~~) that would have been payable under the policies or contracts of the insolvent insurer(;;) for claims incurred:

(A) With respect to group policies and contracts, not later than the earlier of the next renewal date under those policies or contracts or forty-five days, but in no event less than thirty days, after the date on which the association becomes obligated with respect to the policies and contracts;

(B) With respect to nongroup policies, contracts, and annuities not later than the earlier of the next renewal date, if any, under the policies or contracts or one year, but in no event less than thirty days, from the date on which the association becomes obligated with respect to the policies or contracts;

(ii) Make diligent efforts to provide all known insureds, enrollees, or annuitants, for nongroup policies and contracts, or group policy or contract owners with respect to group policies and contracts, thirty days notice of the termination of the benefits provided;

(iii) With respect to nongroup (~~(life and disability insurance)~~) policies (~~(and annuities)~~) or contracts covered by the association, make diligent efforts to make available to each known insured, enrollee, or annuitant, or owner if other than the insured, enrollee, or annuitant, and with respect to an individual formerly insured, formerly an enrollee, or formerly an annuitant under a group policy who is not eligible for replacement group coverage, make diligent efforts to make available substitute coverage on an individual basis in accordance with the provisions of (b)(iv) of this subsection, if the insureds, enrollees, or annuitants had a right under law or the terminated policy or annuity to convert coverage to individual coverage or to continue an individual policy or annuity in force until a specified age or for a specified time, during which the member insurer, health care service contractor, or health maintenance organization had no right unilaterally to make changes in any provision of the policy, contract, or annuity or had a right only to make changes in premium by class;

(iv)(A) The substitute coverage under (b)(iii) of this subsection, must be offered through a solvent, admitted member insurer. In the alternative, the association in its discretion, and subject to any conditions imposed by the association and approved by the commissioner, may reissue the terminated coverage or issue an alternative policy or contract at actuarially justified rates, subject to the prior approval of the commissioner;

(B) Substituted coverage must be offered without requiring evidence of insurability, and may not provide for any waiting period or exclusion that would not have applied under the terminated policy or contract;

(C) The association may reinsure any alternative or reissued policy or contract;

(v) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy or contract, the premium must be actuarially justified and set by the association in accordance with the amount of insurance or coverage provided and the age and class of risk, subject to approval of the (~~(domiciliary insurance)~~) commissioner (~~(and the receivership court)~~);

(vi) If the association elects to issue alternative coverage:



(A) Alternative policies or contracts adopted by the association must be subject to the approval of the commissioner. The association may adopt alternative policies or contracts of various types for future issuance without regard to any particular impairment or insolvency.

(B) Alternative policies or contracts must contain at least the minimum statutory provisions required in this state and provide benefits that cannot be unreasonable in relation to the premium charged. The association must set the premium in accordance with a table of rates that it must adopt. The premium must reflect the amount of insurance benefits or coverage to be provided and the age and class of risk of each insured, but must not reflect any changes in the health of the insured after the original policy or contract was last underwritten.

(C) Any alternative policy or contract issued by the association shall provide coverage of a type similar to that of the policy or contract issued by the impaired or insolvent insurer, as determined by the association;

(vii) The association's obligations with respect to coverage under any policy or contract of the impaired or insolvent insurer or under any reissued policy or contract cease on the date the coverage or policy or contract is replaced by another similar policy or contract by the policy or contract owner, the insured, the enrollee, or the association; or

((vii)) (viii) When proceeding under this subsection (2)(b) with respect to a policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with RCW 48.32A.025(2)(b)(iii).

(3) Nonpayment of premiums within thirty-one days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage terminates the association's obligations under the policy, contract, or coverage under this chapter with respect to the policy, contract, or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this chapter.

(4) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer belong to and are payable at the direction of the association, and the association is liable for unearned premiums due to policy or contract owners arising after the entry of the order.

(5) The protection provided by this chapter does not apply when any guaranty protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

(6) In carrying out its duties under subsection (2) of this section, the association may:

(a) Subject to approval by a court in this state, impose permanent policy or contract liens in connection with a guarantee, assumption, or reinsurance agreement, if the association finds that the amounts which can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the association's duties under this chapter, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of such permanent policy or contract liens, are in the public interest; and

(b) Subject to approval by a court in this state, impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value. In addition, in the event of a temporary moratorium or moratorium charge imposed by the receivership court on payment of cash values or policy loans, or on any other right to withdraw funds held in conjunction with policies or contracts, out of the assets of the impaired or insolvent insurer, the association may defer the payment of cash values, policy loans, or other rights by the association for the period of the moratorium or moratorium charge imposed by the receivership court, except for claims covered by the association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.

(7) A deposit in this state, held pursuant to law or required by the commissioner for the benefit of creditors, including policy or contract owners, not turned over to the domiciliary liquidator upon the entry of a final order of liquidation or order approving a rehabilitation plan of ~~((##))~~ a member insurer domiciled in this state or in a reciprocal state, under RCW 48.31.171, shall be promptly paid to the association. The association is entitled to retain a portion of any amount so paid to it equal to the percentage determined by dividing the aggregate amount of policy or contract owners' claims related to that insolvency for which the association has provided statutory benefits by the aggregate amount of all policy or contract owners' claims in this state related to that insolvency and shall remit to the domiciliary receiver the amount so paid to the association and not retained under this subsection. Any amount so paid to the association less the amount not retained by it shall be treated as a distribution of estate assets under RCW 48.31.185 or similar provision of the state of domicile of the impaired or insolvent insurer.

(8) If the association fails to act within a reasonable period of time with respect to an insolvent insurer, as provided in subsection (2) of this section, the commissioner has the powers and duties of the association under this chapter with respect to the insolvent insurer.

(9) The association may render assistance and advice to the commissioner, upon the commissioner's request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of an impaired or insolvent insurer.

(10) The association has standing to appear or intervene before a court or agency in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this chapter or with jurisdiction over any person or property against which the association may have rights through subrogation or otherwise. Standing extends to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reissuing, reinsuring, modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association also has the right to appear or intervene before a court or agency in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise.

(11)(a) A person receiving benefits under this chapter is deemed to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from, or otherwise relating to, the covered policy or contract to the association to the extent of the benefits received because of this chapter, whether the benefits are payments of or on account of contractual obligations, continuation of coverage, or provision of substitute or alternative policies, contracts, or coverages. The association may require an assignment to it of such rights and cause of action by any enrollee, payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any right or benefits conferred by this chapter upon the person.

(b) The subrogation rights of the association under this subsection have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this chapter.

(c) In addition to (a) and (b) of this subsection, the association has all common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired or insolvent insurer or owner, enrollee, beneficiary, or payee of a policy or contract with respect to the policy or contracts, including without limitation, in the case of a structured settlement annuity, any rights of the owner, beneficiary, or payee of the annuity, to the extent of benefits received under this chapter, against a person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment therefor, excepting any such person responsible solely by reason of serving as an assignee in respect of a qualified assignment under section 130 of the United States Internal Revenue Code.

(d) If (a) through (c) of this subsection are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the association with respect to the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies or contracts, or portion thereof, covered by the association.

(e) If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the association has rights as described in this subsection, the person shall pay to the association the portion of the recovery attributable to the policies or contracts, or portion thereof, covered by the association.

(12) In addition to the rights and powers elsewhere in this chapter, the association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this chapter;

(b) Sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under RCW 48.32A.085 and to settle claims or potential claims against it;

(c) Borrow money to effect the purposes of this chapter; any notes or other evidence of indebtedness of the association not in default are legal investments for domestic insurers and may be carried as admitted assets;

(d) Employ or retain such persons as are necessary or appropriate to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under this chapter;

(e) Take such legal action as may be necessary or appropriate to avoid or recover payment of improper claims;

(f) Exercise, for the purposes of this chapter and to the extent approved by the commissioner, the powers of a domestic life ~~((or))~~ insurer, disability insurer, health care service contractor, or health maintenance organization, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform its obligations under this chapter;

(g) Organize itself as a corporation or in other legal form permitted by the laws of the state;

(h) Request information from a person seeking coverage from the association in order to aid the association in determining its obligations under this chapter with respect to the person, and the person shall promptly comply with the request; ~~((and))~~

(i) In accordance with the terms and conditions of the policy or contract, file for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under this chapter; and

(j) Take other necessary or appropriate action to discharge its duties and obligations under this chapter or to exercise its powers under this chapter.

(13) The association may join an organization of one or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association.

(14)(a) At any time within one year after the coverage date, which is the date on which the association becomes responsible for the obligations of a member insurer, the association may elect to succeed to the rights and obligations of the member insurer, that accrue on or after the coverage date and that relate to policies, contracts, or annuities, covered~~((s))~~ in whole or in part~~((s))~~ by the association, under any one or more indemnity reinsurance agreements entered into by the member insurer as a ceding insurer and selected by the association. However, the association may not exercise an election with respect to a reinsurance agreement if the receiver, rehabilitator, or liquidator of the member insurer has previously and expressly disaffirmed the reinsurance agreement. The election is effective when notice is provided to the receiver, rehabilitator, or liquidator and to the affected reinsurers. If the association makes an election, the following provisions apply with respect to the agreements selected by the association:

(i) The association is responsible for all unpaid premiums due under the agreements, for periods both before and after the coverage date, and is responsible for the performance of all other obligations to be performed after the coverage date, in each case which relate to policies, contracts, or annuities, covered~~((s))~~ in whole or in part~~((s))~~ by the association. The association may charge policies, contracts, or annuities, covered in part by the association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the association;

(ii) The association is entitled to any amounts payable by the reinsurer under the agreements with respect to losses or events that occur in periods after the coverage date and that relate to policies, contracts, or annuities, covered by the association~~((s))~~ in whole or in part. However, upon receipt of any such amounts, the association is obliged to pay to the beneficiary under the policy ~~((or))~~, contract, or annuity on account of which the amounts were paid a portion of the

amount equal to the excess of: The amount received by the association, over the benefits paid by the association on account of the policy ~~((or))~~, contract, or annuity, less the retention of the impaired or insolvent member insurer applicable to the loss or event;

(iii) Within thirty days following the association's election, the association and each indemnity reinsurer shall calculate the net balance due to or from the association under each reinsurance agreement as of the date of the association's election, giving full credit to all items paid by either the member insurer, or its receiver, rehabilitator, or liquidator, or the indemnity reinsurer during the period between the coverage date and the date of the association's election. Either the association or indemnity reinsurer shall pay the net balance due the other within five days of the completion of this calculation. If the receiver, rehabilitator, or liquidator has received any amounts due the association pursuant to (a)(ii) of this subsection, the receiver, rehabilitator, or liquidator shall remit the same to the association as promptly as practicable; and

(iv) If the association, within sixty days of the election, pays the premiums due for periods both before and after the coverage date that relate to policies, contracts, or annuities, covered by the association~~((;))~~ in whole or in part, the reinsurer is not entitled to terminate the reinsurance agreements, insofar as the agreements relate to policies, contracts, or annuities, covered by the association~~((;))~~ in whole or in part, and is not entitled to set off any unpaid premium due for periods prior to the coverage date against amounts due the association;

(b) In the event the association transfers its obligations to another member insurer, and if the association and the other member insurers agree, the other member insurer succeeds to the rights and obligations of the association under (a) of this subsection effective as of the date agreed upon by the association and the other member insurers and regardless of whether the association has made the election referred to in (a) of this subsection. However:

(i) The indemnity reinsurance agreements automatically terminate for new reinsurance unless the indemnity reinsurer and the other member insurers agree to the contrary;

(ii) The obligations described in (a)(ii) of this subsection no longer apply on and after the date the indemnity reinsurance agreement is transferred to the third party member insurer; and

(iii) This subsection (14)(b) does not apply if the association has previously expressly determined in writing that it will not exercise the election referred to in (a) of this subsection;

(c) The provisions of this subsection supersede the provisions of any law of this state or of any affected reinsurance agreement that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the coverage date, to the receiver, liquidator, or rehabilitator of the insolvent ~~((member))~~ insurer. The receiver, rehabilitator, or liquidator remains entitled to any amounts payable by the reinsurer under the reinsurance agreement with respect to losses or events that occur in periods prior to the coverage date, subject to applicable setoff provisions; and

(d) Except as set forth under this subsection, this subsection does not alter or modify the terms and conditions of the indemnity reinsurance agreements of the insolvent ~~((member))~~ insurer. This subsection does not abrogate or limit any

rights of any reinsurer to claim that it is entitled to rescind a reinsurance agreement. This subsection does not give a policy or contract owner, an enrollee, or a beneficiary an independent cause of action against an indemnity reinsurer that is not otherwise set forth in the indemnity reinsurance agreement.

(15) The board of directors of the association has discretion and may exercise reasonable business judgment to determine the means by which the association provides the benefits of this chapter in an economical and efficient manner.

(16) When the association has arranged or offered to provide the benefits of this chapter to a covered person under a plan or arrangement that fulfills the association's obligations under this chapter, the person is not entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

(17) Venue in a suit against the association arising under this chapter is in the county in which liquidation or rehabilitation proceedings have been filed in the case of a domestic member insurer. In other cases, venue is in King county or Thurston county. The association is not required to give an appeal bond in an appeal that relates to a cause of action arising under this chapter.

(18) In carrying out its duties in connection with guaranteeing, assuming, reissuing, or reinsuring policies or contracts under subsection (1) or (2) of this section, the association may ~~((, subject to approval of the receivership court,))~~ issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

(a) In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for: (i) A fixed interest rate; (ii) payment of dividends with minimum guarantees; or (iii) a different method for calculating interest or changes in value;

(b) There is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the replaced policy or contract; and

(c) The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

**Sec. 7.** RCW 48.32A.085 and 2001 c 50 s 9 are each amended to read as follows:

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments are due not less than thirty days after prior written notice to the member insurers and accrue interest at twelve percent per annum on and after the due date.

(2) There are two classes of assessments, as follows:

(a) Class A assessments are authorized and called for the purpose of meeting administrative and legal costs and other expenses. Class A assessments may be authorized and called whether or not related to a particular impaired or insolvent insurer; and

(b) Class B assessments are authorized and called to the extent necessary to carry out the powers and duties of the association under RCW 48.32A.075 with regard to an impaired or an insolvent insurer.

(3)(a) The amount of a class A assessment is determined by the board and may be authorized and called on a pro rata or nonpro rata basis. If pro rata, the board may provide that it be credited against future class B assessments. ~~((The total of all nonpro rata assessments may not exceed one hundred fifty dollars per member insurer in any one calendar year.))~~

~~(b)~~ The amount of a class B assessment ~~((may)),~~ except for assessments related to long-term care insurance, must be allocated for assessment purposes ~~((among))~~ between the accounts and among the subaccounts of the life insurance and annuity accounts, pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard determined by the board to be fair and reasonable under the circumstances.

~~((b))~~ (c) The amount of the class B assessment for long-term care insurance written by an impaired or insolvent insurer must be allocated according to a methodology included in the plan of operation and approved by the commissioner. The methodology must provide for 50 percent of the assessment to be allocated to disability and health member insurers and 50 percent to be allocated to life and annuity member insurers.

(d) Class B assessments against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the three most recent calendar years for which information is available preceding the year in which the insurer became insolvent or, in the case of an assessment with respect to an impaired insurer, the three most recent calendar years for which information is available preceding the year in which the insurer became impaired, bears to premiums received on business in this state for those calendar years by all assessed member insurers.

~~((e))~~ (e) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer may not be authorized or called until necessary to implement the purposes of this chapter. Classification of assessments under subsection (2) of this section and computation of assessments under this subsection must be made with a reasonable degree of accuracy, recognizing that exact determinations are not always possible. The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within one hundred eighty days after the assessment is authorized.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. Once the conditions that caused a deferral have been removed or rectified, the member insurer shall pay all assessments that were deferred pursuant to a repayment plan approved by the association.

(5)(a)(i) Subject to the provisions of (a)(ii) of this subsection, the total of all assessments authorized by the association with respect to a member insurer for each subaccount of the life insurance and annuity account and for the ~~((health))~~ disability insurance account may not in one calendar year exceed two percent of that member insurer's average annual premiums received in this state on the policies and contracts covered by the subaccount or account during the three calendar years preceding the year in which the insurer became an impaired or insolvent insurer.

(ii) If two or more assessments are authorized in one calendar year with respect to insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation in (a)(i) of this subsection must be equal and limited to the higher of the three-year average annual premiums for the applicable subaccount or account as calculated under this section.

(iii) If the maximum assessment, together with the other assets of the association in an account, does not provide in one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds must be assessed as soon thereafter as permitted by this chapter.

(b) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment is insufficient to cover anticipated claims.

(c) If the maximum assessment for a subaccount of the life and annuity account in one year does not provide an amount sufficient to carry out the responsibilities of the association, then under subsection (3)~~((b))~~ (d) of this section, the board shall access the other subaccounts of the life and annuity account for the necessary additional amount, subject to the maximum stated in (a) of this subsection.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each member insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from assignment, subrogation, net realized gains, and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses claims.

(7) Any member insurer may when determining its premium rates and policy owner dividends, as to any kind of insurance, health care service contractor business, or health maintenance organization business within the scope of this chapter, consider the amount reasonably necessary to meet its assessment obligations under this chapter.

(8) The association shall issue to each member insurer paying an assessment under this chapter, other than a class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment paid. All outstanding certificates must be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the member insurer in its financial statement as an asset in such form



and for such amount, if any, and period of time as the commissioner may approve.

(9)(a) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as set forth in the notice provided by the association. The payment is available to meet association obligations during the pendency of the protest or any subsequent appeal. Payment must be accompanied by a statement in writing that the payment is made under protest and setting forth a brief statement of the grounds for the protest.

(b) Within sixty days following the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of its determination with respect to the protest unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

(c) Within thirty days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within sixty days of receipt of notice of the final decision, the protesting member insurer may appeal that final action to the commissioner.

(d) In the alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the association may refer protests to the commissioner for a final decision, with or without a recommendation from the association.

(e) If the protest or appeal on the assessment is upheld, the amount paid in error or excess must be returned to the member ((company)) insurer. Interest on a refund due a protesting member must be paid at the rate actually earned by the association.

(10) The association may request information of member insurers in order to aid in the exercise of its power under this section and member insurers shall promptly comply with a request.

**Sec. 8.** RCW 48.32A.095 and 2001 c 50 s 10 are each amended to read as follows:

(1)(a) The association shall submit to the commissioner a plan of operation and any amendments necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments are effective upon the commissioner's written approval or unless it has not been disapproved within thirty days.

(b) If the association fails to submit a suitable plan of operation within one hundred twenty days following July 22, 2001, or if at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt reasonable rules as necessary or advisable to effectuate the provisions of this chapter. The rules continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

(2) All member insurers shall comply with the plan of operation.

(3) The plan of operation must, in addition to requirements enumerated elsewhere in this chapter:

(a) Establish procedures for handling the assets of the association;

(b) Establish the amount and method of reimbursing members of the board of directors under RCW 48.32A.065;

(c) Establish regular places and times for meetings including telephone conference calls of the board of directors;

(d) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;

(e) Establish the procedures whereby selections for the board of directors are made and submitted to the commissioner;

(f) Establish any additional procedures for assessments under RCW 48.32A.085; ~~((and))~~

(g) Establish procedures whereby a director may be removed for cause, including in the case where a member insurer becomes an impaired or insolvent insurer;

(h) Require the board of directors to establish policies and procedures for addressing conflicts of interests among the board of directors and the member insurers they represent; and

(i) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(4) The plan of operation may provide that any or all powers and duties of the association, except those under RCW 48.32A.075(12)(c) and 48.32A.085, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. Such a corporation, association, or organization must be reimbursed for any payments made on behalf of the association and must be paid for its performance of any function of the association. A delegation under this subsection takes effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this chapter.

**Sec. 9.** RCW 48.32A.115 and 2001 c 50 s 12 are each amended to read as follows:

The commissioner shall aid in the detection and prevention of member insurer insolvencies or impairments.

(1) It is the duty of the commissioner to:

(a) Notify the commissioners of all the other states, territories of the United States, and the District of Columbia within thirty days following the action taken or the date the action occurs, when the commissioner takes any of the following actions against a member insurer:

(i) Revocation of license;

(ii) Suspension of license; or

(iii) Makes a formal order that the ~~((company))~~ member insurer restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policy owners, certificate holders, contract owners, or creditors;

(b) Report to the board of directors when the commissioner has taken any of the actions set forth in (a) of this subsection or has received a report from any other commissioner indicating that any such action has been taken in another state. The report to the board of directors must contain all significant details of the action taken or the report received from another commissioner;

(c) Report to the board of directors when the commissioner has reasonable cause to believe from an examination, whether completed or in process, of any member insurer that the insurer may be an impaired or insolvent insurer; and

(d) Furnish to the board of directors the national association of insurance commissioners insurance regulatory information system ratios and listings of companies not included in the ratios developed by the national association of insurance commissioners, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. The report and the information must be kept confidential by the board of directors until such time as made public by the commissioner or other lawful authority.

(2) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting the duties and responsibilities of the commissioner regarding the financial condition of member insurers and ~~((companies))~~ insurers, health care service contractors, or health maintenance organizations seeking admission to transact ~~((insurance))~~ business in this state.

(3) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of any ~~((company))~~ insurer, health care service contractor, or health maintenance organization seeking to do ~~((an insurance))~~ business in this state. The reports and recommendations are not public documents.

(4) The board of directors may, upon majority vote, notify the commissioner of any information indicating a member insurer may be an impaired or insolvent insurer.

(5) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of member insurer insolvencies.

**Sec. 10.** RCW 48.32A.135 and 2001 c 50 s 14 are each amended to read as follows:

(1) This chapter does not reduce the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

(2) Records must be kept of all meetings of the board of directors to discuss the activities of the association in carrying out its powers and duties under RCW 48.32A.075. The records of the association with respect to an impaired or insolvent insurer may not be disclosed prior to the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent jurisdiction. This subsection does not limit the duty of the association to render a report of its activities under RCW 48.32A.145.

(3) For the purpose of carrying out its obligations under this chapter, the association is a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee under RCW 48.32A.075(11). Assets of the impaired or insolvent insurer attributable to covered policies must be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by this chapter. Assets attributable to covered policies, as used in this subsection, are that proportion of the assets which the

reserves that should have been established for such policies bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

(4) As a creditor of the impaired or insolvent insurer as established in subsection (3) of this section, the association and other similar associations are entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available to reimburse it, as a credit against contractual obligations under this chapter. If the liquidator has not, within one hundred twenty days of a final determination of insolvency of (~~an~~) a member insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, then the association is entitled to make application to the receivership court for approval of its own proposal to disburse these assets.

(5)(a) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, (~~the~~) shareholders, contract owners, certificate holders, enrollees, and (~~the~~) policy owners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of the insolvent insurer. In such a determination, consideration must be given to the welfare of the policy owners, contract owners, certificate holders, and enrollees of the continuing or successor member insurer.

(b) A distribution to stockholders, if any, of an impaired or insolvent insurer shall not be made until and unless the total amount of valid claims of the association with interest thereon for funds expended in carrying out its powers and duties under RCW 48.32A.075 with respect to the member insurer have been fully recovered by the association.

(6)(a) If an order for liquidation or rehabilitation of (~~an~~) a member insurer domiciled in this state has been entered, the receiver appointed under the order has a right to recover on behalf of the member insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation subject to the limitations of (b) through (d) of this subsection.

(b) A distribution is not recoverable if the member insurer shows that when paid the distribution was lawful and reasonable, and that the member insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the member insurer to fulfill its contractual obligations.

(c) Any person who was an affiliate that controlled the member insurer at the time the distributions were paid is liable up to the amount of distributions received. Any person who was an affiliate that controlled the member insurer at the time the distributions were declared, is liable up to the amount of distributions which would have been received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they are jointly and severally liable.

(d) The maximum amount recoverable under this subsection is the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer.

(e) If any person liable under (c) of this subsection is insolvent, all its affiliates that controlled it at the time the distribution was paid are jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

**Sec. 11.** RCW 48.32A.175 and 2001 c 50 s 18 are each amended to read as follows:

All proceedings in which the insolvent insurer is a party in any court in this state are stayed (~~(sixty)~~) one hundred eighty days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the association on any matters germane to its powers or duties. As to judgment under any decision, order, verdict, or finding based on default the association may apply to have such a judgment set aside by the same court that made such a judgment and must be permitted to defend against the suit on the merits.

**Sec. 12.** RCW 48.32A.185 and 2005 c 274 s 313 are each amended to read as follows:

(1) No person, including ~~((an))~~ a member insurer, agent, or affiliate of ~~((an))~~ a member insurer may make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement, written or oral, which uses the existence of the insurance guaranty association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance or other coverage covered by the Washington life and disability insurance guaranty association act. However, this section does not apply to the Washington life and disability insurance guaranty association or any other entity which does not sell or solicit insurance or coverage by a health care service contractor or health maintenance organization.

(2) ~~((Within one hundred eighty days after July 22, 2001, the))~~ The association shall prepare a summary document describing the general purposes and current limitations of this chapter and complying with subsection (3) of this section. This summary document must be submitted to the commissioner for approval. The summary document must also be available upon request by a policy owner, contract owner, certificate owner, or enrollee. The distribution, delivery, contents, or interpretation of this document does not guarantee that either the policy or the contract or the ~~((owner of the policy or contract))~~ policy owner, contract owner, certificate holder, or enrollee is covered in the event of the impairment or insolvency of a member insurer. The ~~((description))~~ summary document must be revised by the association as amendments to this chapter may require. Failure to receive this document does not give the policy owner, contract owner, certificate holder, enrollee, or insured any greater rights than those stated in this chapter.

(3) The summary document prepared under subsection (2) of this section must contain a clear and conspicuous disclaimer on its face. The commissioner shall establish the form and content of the disclaimer. The disclaimer must:

(a) State the name and address of the life and disability insurance guaranty association and insurance department;

(b) Prominently warn the (~~policy or contract owner~~) policy owner, contract owner, certificate holder, or enrollee that the life and disability insurance guaranty association may not cover the policy or contract or, if coverage is available, it is subject to substantial limitations and exclusions and conditioned on continued residence in this state;

(c) State the types of policies or contracts for which guaranty funds provide coverage;

(d) State that the member insurer and its agents are prohibited by law from using the existence of the life and disability insurance guaranty association for the purpose of sales, solicitation, or inducement to purchase any form of insurance, health care service contractor coverage, or health maintenance organization coverage;

(e) State that the policy (~~or~~) owner, contract owner, certificate holder, insured, or enrollee should not rely on coverage under the life and disability insurance guaranty association when selecting an insurer, health care service contractor, or health maintenance organization;

(f) Explain rights available and procedures for filing a complaint to allege a violation of any provisions of this chapter; and

(g) Provide other information as directed by the commissioner including but not limited to, sources for information about the financial condition of member insurers provided that the information is not proprietary and is subject to disclosure under chapter 42.56 RCW.

(4) A member insurer must retain evidence of compliance with subsection (2) of this section for as long as the policy or contract for which the notice is given remains in effect.

Passed by the Senate January 26, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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**CHAPTER 152**

[Senate Bill 5518]

**OCCUPATIONAL THERAPY LICENSURE COMPACT**

AN ACT Relating to the occupational therapy licensure compact; and adding a new section to chapter 18.59 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.59 RCW to read as follows:

**OCCUPATIONAL THERAPY LICENSURE COMPACT**

## ARTICLE 1 PURPOSE

The purpose of this compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. This 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 occupational therapy services by providing for the mutual recognition of other member state licenses;
- (2) Enhance the states' ability to protect the public's health and safety;
- (3) Encourage the cooperation of member states in regulating multistate occupational therapy practice;
- (4) Support spouses of relocating military members;
- (5) Enhance the exchange of licensure, investigative, and disciplinary information between member states;
- (6) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and
- (7) Facilitate the use of telehealth technology in order to increase access to occupational therapy services.

## ARTICLE 2 DEFINITIONS

As used in this compact, and except as otherwise provided, the following definitions shall apply:

(1) "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211.

(2) "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 an occupational therapist or occupational therapy assistant, including actions against an individual's license or compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

(3) "Alternative program" means a nondisciplinary monitoring process approved by an occupational therapy licensing board.

(4) "Compact privilege" means the authorization, which is equivalent to a license, granted by a remote state to allow a licensee from another member state to practice as an occupational therapist or practice as an occupational therapy assistant in the remote state under its laws and rules. The practice of occupational therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

(5) "Continuing competence/education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

(6) "Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the occupational therapist or occupational therapy assistant to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

(7) "Data system" means a repository of information about licensees including, but not limited to, license status, investigative information, compact privileges, and adverse actions.

(8) "Encumbered license" means a license in which an adverse action restricts the practice of occupational therapy by the licensee or said adverse action has been reported to the national practitioners data bank.

(9) "Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(10) "Home state" means the member state that is the licensee's primary state of residence.

(11) "Impaired practitioner" means an individual whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

(12) "Investigative information" means information, records, and/or documents received or generated by an occupational therapy licensing board pursuant to an investigation.

(13) "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of occupational therapy in a state.

(14) "Licensee" means an individual who currently holds an authorization from the state to practice as an occupational therapist or as an occupational therapy assistant.

(15) "Member state" means a state that has enacted the compact.

(16) "Occupational therapist" means an individual who is licensed by a state to practice occupational therapy.

(17) "Occupational therapy," "occupational therapy practice," and "practice of occupational therapy" mean the care and services provided by an occupational therapist or an occupational therapy assistant as set forth in the member state's statutes and regulations.

(18) "Occupational therapy assistant" means an individual who is licensed by a state to assist in the practice of occupational therapy.

(19) "Occupational therapy compact commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the compact.

(20) "Occupational therapy licensing board" or "licensing board" means the agency of a state that is authorized to license and regulate occupational therapists and occupational therapy assistants.

(21) "Primary state of residence" means the state, also known as the home state, in which an occupational therapist or occupational therapy assistant who is not active duty military declares a primary residence for legal purposes as verified by: Driver's license, federal income tax return, lease, deed, mortgage, or voter registration, or other verifying documentation as further defined by commission rules.



(22) "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

(23) "Rule" means a regulation promulgated by the commission that has the force of law.

(24) "Single-state license" means an occupational therapist or occupational therapy assistant license issued by a member state that authorizes practice only within the issuing state and does not include a compact privilege in any other member state.

(25) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of occupational therapy.

(26) "Telehealth" means the application of telecommunication technology to deliver occupational therapy services for assessment, intervention, and/or consultation.

### ARTICLE 3 STATE PARTICIPATION IN THIS COMPACT

(1) To participate in this compact, a member state shall:

(a) License occupational therapists and occupational therapy assistants;

(b) Participate fully in the commission's data system including, but not limited to, using the commission's unique identifier as defined in rules of the commission;

(c) Have a mechanism in place for receiving and investigating complaints about licensees;

(d) Notify the commission, in compliance with the terms of this compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

(e) Implement or utilize procedures for considering the criminal history records of applicants for an initial compact privilege. These 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.

(i) A member state shall, within a time frame established by the commission, require a criminal background check for a licensee seeking or applying for a compact privilege whose primary state of residence is that member state, by receiving the results of the federal bureau of investigation criminal record search, and shall use the results in making licensure decisions.

(ii) Communication between a member state, the commission, and among member states regarding the verification of eligibility for licensure through this compact shall not include any information received from the federal bureau of investigation relating to a federal criminal records check performed by a member state under P.L. 92-544;

(f) Comply with the rules of the commission;

(g) Utilize only a recognized national examination as a requirement for licensure pursuant to the rules of the commission; and

(h) Have continuing competence/education requirements as a condition for license renewal.

(2) A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of this compact and rules.

(3) Member states may charge a fee for granting a compact privilege.

(4) A member state shall provide for the state's delegate to attend all occupational therapy compact commission meetings.

(5) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the compact privilege in any other member state.

(6) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

#### ARTICLE 4 COMPACT PRIVILEGE

(1) To exercise the compact privilege under the terms and provisions of this compact, the licensee shall:

(a) Hold a license in the home state;

(b) Have a valid United States social security number or national practitioner identification number;

(c) Have no encumbrance on any state license;

(d) Be eligible for a compact privilege in any member state in accordance with subsections (4), (6), (7), and (8) of this Article;

(e) Have paid all fines and completed all requirements resulting from any adverse action against any license or compact privilege, and two years have elapsed from the date of such completion;

(f) Notify the commission that the licensee is seeking the compact privilege within a remote state or states;

(g) Pay any applicable fees, including any state fee, for the compact privilege;

(h) Complete a criminal background check in accordance with subsection (1)(e) of Article 3 of this compact. The licensee shall be responsible for the payment of any fee associated with the completion of a criminal background check;

(i) Meet any jurisprudence requirements established by the remote state or states in which the licensee is seeking a compact privilege; and

(j) Report to the commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken.

(2) The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection (1) of this Article to maintain the compact privilege in the remote state.

(3) A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(4) Occupational therapy assistants practicing in a remote state shall be supervised by an occupational therapist licensed or holding a compact privilege in that remote state.

(5) A licensee providing occupational therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

(6) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

(a) The home state license is no longer encumbered; and

(b) Two years have elapsed from the date on which the home state license is no longer encumbered in accordance with (a) of this subsection.

(7) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (1) of this Article to obtain a compact privilege in any remote state.

(8) If a licensee's compact privilege in any remote state is removed, the individual may lose the compact privilege in any other remote state until the following occur:

(a) The specific period of time for which the compact privilege was removed has ended;

(b) All fines have been paid and all conditions have been met;

(c) Two years have elapsed from the date of completing requirements for (a) and (b) of this subsection; and

(d) The compact privileges are reinstated by the commission, and the compact data system is updated to reflect reinstatement.

(9) If a licensee's compact privilege in any remote state is removed due to an erroneous charge, privileges shall be restored through the compact data system.

(10) Once the requirements of subsection (8) of this Article have been met, the licensee must meet the requirements in subsection (1) of this Article to obtain a compact privilege in a remote state.

## **ARTICLE 5 OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE**

(1) An occupational therapist or occupational therapy assistant may hold a home state license, which allows for compact privileges in member states, in only one member state at a time.

(2) If an occupational therapist or occupational therapy assistant changes primary state of residence by moving between two member states:

(a) The occupational therapist or occupational therapy assistant shall file an application for obtaining a new home state license by virtue of a compact privilege, pay all applicable fees, and notify the current and new home state in accordance with applicable rules adopted by the commission.

(b) Upon receipt of an application for obtaining a new home state license by virtue of compact privilege, the new home state shall verify that the occupational therapist or occupational therapy assistant meets the pertinent criteria outlined in Article 4 of this compact via the data system, without need for primary source verification except for:

(i) A federal bureau of investigation fingerprint-based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with P.L. 92-544;

(ii) Other criminal background check as required by the new home state; and

(iii) Submission of any requisite jurisprudence requirements of the new home state.

(c) The former home state shall convert the former home state license into a compact privilege once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission.

(d) Notwithstanding any other provision of this compact, if the occupational therapist or occupational therapy assistant cannot meet the criteria in Article 4 of this compact, the new home state shall apply its requirements for issuing a new single-state license.

(e) The occupational therapist or the occupational therapy assistant shall pay all applicable fees to the new home state in order to be issued a new home state license.

(3) If an occupational therapist or occupational therapy assistant changes primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, the state criteria shall apply for issuance of a single-state license in the new 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 license.

(5) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

## ARTICLE 6

### ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active duty military personnel, or their spouses, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change his or her home state through application for licensure in the new state or through the process described in Article 5 of this compact.

## ARTICLE 7

### ADVERSE ACTIONS

(1) Home state shall have exclusive power to impose adverse action against an occupational therapist's or occupational therapy assistant's license issued by the home state.

(2) 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 an occupational therapist's or occupational therapy assistant's compact privilege within that member state; and

(b) 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 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 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.

(3) 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.

(4) The home state shall complete any pending investigations of an occupational therapist or occupational therapy assistant who changes primary state of residence during the course of the investigations. The home state, where the investigations were initiated, shall also have the authority to take appropriate action or actions and shall promptly report the conclusions of the investigations to the occupational therapy compact commission data system. The occupational therapy compact commission data system administrator shall promptly notify the new home state of any adverse actions.

(5) A member state, if otherwise permitted by state law, may recover from the affected occupational therapist or occupational therapy assistant the costs of investigations and disposition of cases resulting from any adverse action taken against that occupational therapist or occupational therapy assistant.

(6) A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

(7) Joint investigations.

(a) In addition to the authority granted to a member state by its respective state occupational therapy laws and regulations 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 this compact.

(8) If an adverse action is taken by the home state against an occupational therapist's or occupational therapy assistant's license, the occupational therapist's or occupational therapy assistant's compact privilege in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an occupational therapist's or occupational therapy assistant's license shall include a statement that the occupational therapist's or occupational therapy assistant's compact privilege is deactivated in all member states during the pendency of the order.

(9) 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 of any adverse actions by remote states.

(10) 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.

**ARTICLE 8**  
**ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT COMMISSION**

(1) The compact member states hereby create and establish a joint public agency known as the occupational therapy compact commission.

(a) The commission is an instrumentality of the compact states.

(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.

(c) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(2) Membership, voting, and meetings.

(a) Each member state shall have and be limited to one delegate selected by that member state's licensing board.

(b) The delegate shall be either:

(i) A current member of the licensing board, who is an occupational therapist, occupational therapy assistant, or public member; or

(ii) An administrator of the licensing board.

(c) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

(d) The member state board shall fill any vacancy occurring in the commission within 90 days.

(e) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws 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 telephone 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 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 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 and the bylaws;

(f) Promulgate uniform 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 member states;

(g) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state occupational therapy licensing board to sue or be sued under applicable law shall not be affected;

(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) Hire employees, 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;

(k) 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 and/or conflict of interest;

(l) 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;

(m) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(n) Establish a budget and make expenditures;

(o) Borrow money;

(p) 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;

(q) Provide and receive information from, and cooperate with, law enforcement agencies;

(r) Establish and elect an executive committee; and

(s) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of occupational therapy licensure and practice.

(4) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact.

(a) 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 occupational therapy professional association; and

(iii) One ex officio, nonvoting member from a recognized national occupational therapy certification organization.

(b) 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 bylaws.

(d) The executive committee shall meet at least annually.

(e) The executive committee shall have the following duties and responsibilities:

(i) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member 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 member states and provide compliance reports to the commission;

(vi) Establish additional committees as necessary; and

(vii) Perform other duties as provided in the rules or bylaws.

(5) Meetings of the commission.

(a) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rule-making provisions in Article 10 of this compact.

(b) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

(i) Noncompliance of a member 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; or

(x) Matters specifically exempted from disclosure by federal or member state statute.

(c) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(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 by a majority vote of the commission or order of a court of competent jurisdiction.

(6) 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 member state or impose fees on other parties 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 shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(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 audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in, and become part of, the annual report of the commission.

(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, either personally or 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 and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(b) The commission shall defend any member, officer, executive director, employee, or 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 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 his or her own counsel; 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, or 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.

## ARTICLE 9 DATA SYSTEM

(1) The commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(2) A member state shall submit a uniform data set to the data system on all individuals 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) Nonconfidential information related to alternative program participation;
- (e) Any denial of application for licensure, and the reason or reasons for such denial;

(f) Other information that may facilitate the administration of this compact, as determined by the rules of the commission; and

(g) Current significant investigative information.

(3) Current significant investigative information and other investigative information pertaining to a licensee in any member state will only be available to other member states.

(4) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(5) 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.

(6) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

## ARTICLE 10 RULE MAKING

(1) The commission shall exercise its rule-making powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(2) The commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the commission exercises its rule-making authority in a manner that is beyond the scope of the purposes of this

compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect.

(3) If a majority of the legislatures of the member states rejects a 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 member state.

(4) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(5) 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) On the website of each member state occupational therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(6) The notice of proposed rule making shall include:

(a) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(b) The text of the proposed rule or amendment and the reason for the proposed rule;

(c) A request for comments on the proposed rule from any interested person; and

(d) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(7) 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.

(8) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(a) At least 25 persons;

(b) A state or federal governmental subdivision or agency; or

(c) An association or organization having at least 25 members.

(9) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is 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 notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of 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 will be recorded. A copy of the recording will be made available on request.

(d) 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 Article.

(10) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(11) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(12) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rule-making record and the full text of the rule.

(13) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rule-making procedures provided in this compact and in this Article 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 subsection, 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 an administrative rule that is established by federal law or rule; or

(d) Protect public health and safety.

(14) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment 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 chair of 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.

## ARTICLE 11

### OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

#### (1) Oversight.

(a) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(b) All courts shall take judicial notice of this compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

(c) The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission 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:

(i) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and/or any other action to be taken by the commission; and

(ii) Provide 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 member states, and all rights, privileges, and benefits conferred 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.

(c) Termination of membership 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 each of the member 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 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 member shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(3) 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.

(4) Enforcement.

(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(b) 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 member state in default to enforce compliance with the provisions of this compact and its promulgated rules and

bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member 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.

## ARTICLE 12

### DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

(1) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of. Thereafter, the commission shall meet and exercise rule-making powers necessary to the implementation and administration of this compact.

(2) Any state that joins this compact subsequent to the commission's initial adoption of the rules shall be subject to the rules 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 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 six months after enactment of the repealing statute.

(b) Withdrawal shall not affect the continuing requirement of the withdrawing state's occupational therapy licensing board to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(4) Nothing contained in this compact shall be construed to invalidate or prevent any occupational therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(5) 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.

## ARTICLE 13

### CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any

government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, this 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.

## ARTICLE 14 BINDING EFFECT OF COMPACT AND OTHER LAWS

(1) A licensee providing occupational therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(2) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

(3) Any laws in a member state in conflict with this compact are superseded to the extent of the conflict.

(4) Any lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(5) All agreements between the commission and the member states are binding in accordance with their terms.

(6) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Passed by the Senate February 2, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 153

[Second Substitute Senate Bill 5532]

### PRESCRIPTION DRUG AFFORDABILITY BOARD

AN ACT Relating to establishing a prescription drug affordability board; amending RCW 43.71C.100 and 42.30.110; adding a new section to chapter 48.43 RCW; adding a new chapter to Title 70 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Biological product" has the same meaning as in 42 U.S.C. Sec. 262(i)(1).

(3) "Biosimilar" has the same meaning as in 42 U.S.C. Sec. 262(i)(2).

(4) "Board" means the prescription drug affordability board.

(5) "Excess costs" means:

(a) Costs of appropriate utilization of a prescription drug that exceed the therapeutic benefit relative to other alternative treatments; or

(b) Costs of appropriate utilization of a prescription drug that are not sustainable to public and private health care systems over a 10-year time frame.

(6) "Generic drug" has the same meaning as in RCW 69.48.020.

(7) "Health carrier" or "carrier" has the same meaning as in RCW 48.43.005.

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

(9) "Prescription drug" means a drug regulated under chapter 69.41 or 69.50 RCW, including generic, brand name, specialty drugs, and biological products.

**NEW SECTION. Sec. 2. PRESCRIPTION DRUG AFFORDABILITY BOARD.** (1) The prescription drug affordability board is established, to include five members who have expertise in health care economics or clinical medicine appointed by the governor.

(2) Board members shall serve for a term of five years and members may be reappointed by the governor for additional terms.

(3) No board member or advisory group member may be an employee of, a board member of, or consultant to a prescription drug manufacturer, pharmacy benefit manager, health carrier, prescription drug wholesale distributor, or related trade association, except that a representative from the prescription drug industry serving on an advisory group may be an employee, consultant, or board member of a prescription drug manufacturer or related trade association and shall not be deemed to have a conflict of interest pursuant to subsection (4) of this section.

(4)(a) Board members, advisory group members, staff members, and contractors providing services on behalf of the board shall recuse themselves from any board activity in any case in which they have a conflict of interest.

(b) For the purposes of this section, a conflict of interest means an association, including a financial or personal association, that has the potential to bias or appear to bias an individual's decisions in matters related to the board or the activities of the board.

(5) The board shall establish advisory groups consisting of relevant stakeholders, including but not limited to patients and patient advocates for the condition treated by the drug and one member who is a representative of the prescription drug industry, for each drug affordability review conducted by the board pursuant to section 4 of this act. Advisory group members are immune from civil liability for any official act performed in good faith as a member of the group.

(6) The authority shall provide administrative support to the board and any advisory group of the board and shall adopt rules governing their operation that shall include how and when the board will use and discuss confidential information that is exempt from public disclosure. The rules adopted under this subsection may not go into effect until at least 90 days after the next regular legislative session.

(7) Board members shall be compensated for participation in the work of the board in accordance with a personal services contract to be executed after



appointment and before commencement of activities related to the work of the board.

(8) A simple majority of the board's membership constitutes a quorum for the purpose of conducting business.

(9) All meetings of the board must be open and public, except that the board may hold executive sessions to the extent permitted by chapter 42.30 RCW.

(10) The board may not hold its first meeting until at least one year after the authority publishes its first report on the impact that drug costs, rebates, and other discounts have on health care premiums pursuant to RCW 43.71C.100.

(11) The board must coordinate and collaborate with the authority, other boards, work groups, and commissions related to prescription drug costs and emerging therapies, including but not limited to the health care cost transparency board established in chapter 70.390 RCW, and the universal health care commission established in RCW 41.05.840. All coordination and collaboration by the board pursuant to this subsection must comply with chapter 42.30 RCW, the open public meetings act.

(12) The board may collaborate with prescription drug affordability boards established in other states.

**NEW SECTION. Sec. 3. AUTHORITY TO REVIEW DRUG PRICES.** By June 30, 2023, and annually thereafter, utilizing data collected pursuant to chapter 43.71C 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.

**NEW SECTION. Sec. 4. AFFORDABILITY REVIEWS.** (1) The board may choose to conduct an affordability review of up to 24 prescription drugs per year identified pursuant to section 3 of this act. When deciding whether to conduct a review, the board shall consider:

(a) The class of the prescription drug and whether any therapeutically equivalent prescription drugs are available for sale;

(b) Input from relevant advisory groups established pursuant to section 2 of this act; and

(c) The average patient's out-of-pocket cost for the drug.

(2) For prescription drugs chosen for an affordability review, the board must determine whether the prescription drug has led or will lead to excess costs to

patients. The board may examine publicly available information as well as collect confidential and proprietary information from the prescription drug manufacturer and other relevant sources.

(3) A manufacturer must submit all requested information to the board within 30 days of the request.

(4) The authority may assess a fine of up to \$100,000 against a manufacturer for each failure to comply with an information request from the board. The process for the assessment of a fine under this subsection shall be established by the authority in rule and is subject to review under the administrative procedure act, chapter 34.05 RCW. The rules adopted under this subsection may not go into effect until at least 90 days after the next regular legislative session.

(5) When conducting a review, the board shall consider:

(a) The relevant factors contributing to the price paid for the prescription drug, including the wholesale acquisition cost, discounts, rebates, or other price concessions;

(b) The average patient copay or other cost sharing for the drug;

(c) The effect of the price on consumers' access to the drug in the state;

(d) Orphan drug status;

(e) The dollar value and accessibility of patient assistance programs offered by the manufacturer for the drug;

(f) The price and availability of therapeutic alternatives;

(g) Input from:

(i) Patients affected by the condition or disease treated by the drug; and

(ii) Individuals with medical or scientific expertise related to the condition or disease treated by the drug;

(h) Any other information the drug manufacturer or other relevant entity chooses to provide;

(i) The impact of pharmacy benefit manager policies on the price consumers pay for the drug; and

(j) Any other relevant factors as determined by the board.

(6) In performing an affordability review of a drug the board may consider the following factors:

(a) Life-cycle management;

(b) The average cost of the drug in the state;

(c) Market competition and context;

(d) Projected revenue;

(e) Off-label usage of the drug; and

(f) Any additional factors identified by the board.

(7) All information collected by the board pursuant to this section is confidential and not subject to public disclosure under chapter 42.56 RCW.

(8) The board shall publicize which prescription drugs are subject to an affordability review before the review begins.

**NEW SECTION. Sec. 5. UPPER PAYMENT LIMITS.** (1) The authority must adopt rules setting forth a methodology established by the board for setting upper payment limits for prescription drugs the board has determined have led or will lead to excess costs based on its affordability review. The rules adopted under this subsection may not go into effect until at least 90 days after the next regular legislative session. Each year, the board may set an upper payment limit for up to 12 prescription drugs.

- (2) The methodology must take into consideration:
  - (a) The cost of administering the drug;
  - (b) The cost of delivering the drug to patients;
  - (c) The status of the drug on the drug shortage list published by the United States food and drug administration; and
  - (d) Other relevant administrative costs related to the production and delivery of the drug.
- (3) The methodology determined by the board must not use quality-adjusted life years that take into account a patient's age or severity of illness or disability to identify subpopulations for which a prescription drug would be less cost-effective. For any prescription drug that extends life, the board's analysis of cost-effectiveness may not employ a measure or metric which assigns a reduced value to the life extension provided by a treatment based on a preexisting disability or chronic health condition of the individuals whom the treatment would benefit.
- (4) Before setting an upper payment limit for a drug, the board must post notice of the proposed upper payment limit on the authority's website, including an explanation of the factors considered when setting the proposed limit and instructions to submit written comment. The board must provide 30 days to submit public comment.
- (5) The board must monitor the supply of drugs for which it sets an upper payment limit and may suspend that limit if there is a shortage of the drug in the state.
- (6) An upper payment limit for a prescription drug established by the board applies to all purchases of the drug by any entity and reimbursements for a claim for the drug by a health carrier, or a health plan offered under chapter 41.05 RCW, when the drug is dispensed or administered to an individual in the state in person, by mail, or by other means.
- (7) An employer-sponsored self-funded plan may elect to be subject to the upper payment limits as established by the board.
- (8) The board must establish an effective date for each upper payment limit, provided that the upper payment limit may not go into effect until at least 90 days after the next regular legislative session and that the date is at least six months after the adoption of the upper payment limit and applies only to purchases, contracts, and plans that are issued on or renewed after the effective date.
- (9) Any entity affected by a decision of the board may request an appeal within 30 days of the board's decision, and the board must rule on the appeal within 60 days. Board rulings are subject to judicial review pursuant to chapter 34.05 RCW.
- (10) For any upper payment limit set by the board, the board must notify the manufacturer of the drug and the manufacturer must inform the board if it is able to make the drug available for sale in the state and include a rationale for its decision. The board must annually report to the relevant committees of the legislature detailing the manufacturers' responses.
- (11) The board may reassess the upper payment limit for any drug annually based on current economic factors.
- (12) The board may not establish an upper payment limit for any prescription drug before January 1, 2027.

(13)(a) Any individual denied coverage by a health carrier for a prescription drug because the drug was unavailable due to an upper payment limit established by the board, may seek review of the denial pursuant to RCW 48.43.530 and 48.43.535.

(b) If it is determined that the prescription drug should be covered based on medical necessity, the carrier may disregard the upper payment limit and must provide coverage for the drug.

**NEW SECTION. Sec. 6.** USE OF SAVINGS. (1) Any savings generated for a health plan, as defined in RCW 48.43.005, or a health plan offered under chapter 41.05 RCW that are attributable to the establishment of an upper payment limit established by the board must be used to reduce costs to consumers, prioritizing the reduction of out-of-pocket costs for prescription drugs.

(2) By January 1, 2024, the board must establish a formula for calculating savings for the purpose of complying with this section.

(3) By March 1st of the year following the effective date of the first upper payment limit, and annually thereafter, each state agency and health carrier issuing a health plan in the state must submit a report to the board describing the savings in the previous calendar year that were attributable to upper payment limits set by the board and how the savings were used to satisfy the requirements of subsection (1) of this section.

**NEW SECTION. Sec. 7.** MANUFACTURER WITHDRAWAL FROM THE MARKET. (1) Any manufacturer that intends to withdraw a prescription drug from sale or distribution within the state because the board has established an upper payment limit for that drug shall provide a notice of withdrawal in writing indicating the drug will be withdrawn because of the establishment of the upper payment limit at least 180 days before the withdrawal to the office of the insurance commissioner, the authority, and any entity in the state with which the manufacturer has a contract for the sale or distribution of the drug.

(2) If a manufacturer chooses to withdraw the prescription drug from the state, it shall be prohibited from selling that drug in the state for a period of three years.

(3) A manufacturer that has withdrawn a drug from the market may petition the authority, in a form and manner determined by the authority in rule, to reenter the market before the expiration of the three-year ban if it agrees to make the drug available for sale in compliance with the upper payment limit.

(4) The rules adopted under this section may not go into effect until at least 90 days after the next regular legislative session.

**NEW SECTION. Sec. 8.** By December 15, 2022, and annually thereafter, the board shall provide a comprehensive report to the legislature detailing all actions the board has taken in the past year, including any rules adopted by the authority pursuant to this act, establishing any processes, such as the methodology for the upper payment limit, the list of drugs identified in section 3 of this act, the drugs the board completed an affordability review of and any determinations of whether the drug had led or will lead to excess costs, and the establishment of any upper payment limits.

**NEW SECTION. Sec. 9.** RULE MAKING. The authority may adopt any rules necessary to implement this chapter. The rules adopted under this section

may not go into effect until at least 90 days after the next regular legislative session.

**NEW SECTION. Sec. 10.** A new section is added to chapter 48.43 RCW to read as follows:

(1) For health plans issued or renewed on or after January 1, 2024, if the prescription drug affordability board, as established in chapter 70.--- RCW (the new chapter created in section 12 of this act), establishes an upper payment limit for a prescription drug pursuant to section 5 of this act, a carrier must provide sufficient information, as determined by the commissioner, to indicate that reimbursement for a claim for that prescription drug will not exceed the upper payment limit for the drug established by the board.

(2) The commissioner may adopt any rules necessary to implement this section.

**Sec. 11.** RCW 43.71C.100 and 2019 c 334 s 10 are each amended to read as follows:

(1) The authority shall compile and analyze the data submitted by health carriers, pharmacy benefit managers, manufacturers, and pharmacy services administrative organizations pursuant to this chapter and prepare an annual report for the public and the legislature synthesizing the data to demonstrate the overall impact that drug costs, rebates, and other discounts have on health care premiums.

(2) The data in the report must be aggregated and must not reveal information specific to individual health carriers, pharmacy benefit managers, pharmacy services administrative organizations, individual prescription drugs, individual classes of prescription drugs, individual manufacturers, or discount amounts paid in connection with individual prescription drugs.

(3) Beginning January 1, 2021, and by each January 1st thereafter, the authority must publish the report on its web site.

(4) Except for the report, and as provided in subsection (5) of this section, the authority shall keep confidential all data submitted pursuant to RCW 43.71C.020 through 43.71C.080.

(5) For purposes of public policy, upon request of a legislator, the authority must provide all data provided pursuant to RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority. Any information provided pursuant to this subsection must be kept confidential within the legislature and may not be publicly released.

(6) For the purpose of reviewing drug prices and conducting affordability reviews, the prescription drug affordability board, as established in chapter 70.-- - RCW (the new chapter created in section 12 of this act), and the health care cost transparency board, established in chapter 70.390 RCW, may access all data collected pursuant to RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority.

(7) The data collected pursuant to this chapter is not subject to public disclosure under chapter 42.56 RCW. Any information provided pursuant to this section must be kept confidential and may not be publicly released. Recipients of data under subsection (6) of this section shall:

(a) Follow all rules adopted by the authority regarding appropriate data use and protection; and

(b) Acknowledge that the recipient is responsible for any liability arising from misuse of the data and that the recipient does not have any conflicts under the ethics in public service act that would prevent the recipient from accessing or using the data.

NEW SECTION. Sec. 12. Sections 1 through 9 of this act constitute a new chapter in Title 70 RCW.

**Sec. 13.** RCW 42.30.110 and 2019 c 162 s 2 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a)(i) To consider matters affecting national security;

(ii) To consider, if in compliance with any required data security breach disclosure under RCW 19.255.010 and 42.56.590, and with legal counsel available, information regarding the infrastructure and security of computer and telecommunications networks, security and service recovery plans, security risk assessments and security test results to the extent that they identify specific system vulnerabilities, and other information that if made public may increase the risk to the confidentiality, integrity, or availability of agency security or to information technology infrastructure or assets;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(o) To consider information regarding staff privileges or quality improvement committees under RCW 70.41.205;

(p) To consider proprietary or confidential data collected or analyzed pursuant to chapter 70.--- RCW (the new chapter created in section 12 of this act).

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be

concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

**NEW SECTION. Sec. 14.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 7, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 154

[Senate Bill 5566]

### INDEPENDENT YOUTH HOUSING PROGRAM—ELIGIBILITY

AN ACT Relating to expanding eligibility for the independent youth housing program; amending RCW 43.63A.307; and creating a new section.

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

**Sec. 1.** RCW 43.63A.307 and 2009 c 148 s 2 are each amended to read as follows:

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

(1) "Department" means the department of ~~((community, trade, and economic development))~~ commerce.

(2) "Eligible youth" means an individual who:

(a) On or after September 1, 2006, is at least eighteen, was a dependent of the state under chapter 13.34 RCW at any time ~~((during the four-month period))~~ before his or her eighteenth birthday, and has not yet reached the age of ~~((twenty-three))~~ 25;

(b) Except as provided in RCW 43.63A.309(2)(a), has a total income from all sources, except for temporary sources that include, but are not limited to, overtime wages, bonuses, or short-term temporary assignments, that does not exceed fifty percent of the area median income;

(c) ~~((Is not receiving services under RCW 74.13.031(10)(b);~~

~~((4)))~~ Complies with other eligibility requirements the department may establish.

(3) "Fair market rent" means the fair market rent in each county of the state, as determined by the United States department of housing and urban development.

(4) "Independent housing" means a housing unit that is not owned by or located within the home of the eligible youth's biological parents or any of the eligible youth's former foster care families or dependency guardians. "Independent housing" may include a unit in a transitional or other supportive housing facility.

(5) "Individual development account" or "account" means an account established by contract between a low-income individual and a sponsoring organization for the benefit of the low-income individual and funded through periodic contributions by the low-income individual that are matched with contributions by or through the sponsoring organization.



(6) "Subcontractor organization" means an eligible organization described under RCW 43.185A.040 that contracts with the department to administer the independent youth housing program.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 7, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 155

[Substitute Senate Bill 5589]

### HEALTH CARE—PRIMARY CARE EXPENDITURES

AN ACT Relating to statewide spending on primary care; adding a new section to chapter 70.390 RCW; and adding a new section to chapter 48.43 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 70.390 RCW to read as follows:

(1) The board shall measure and report on primary care expenditures in Washington and the progress towards increasing it to 12 percent of total health care expenditures.

(2) By December 1, 2022, the board shall submit a preliminary report to the governor and relevant committees of the legislature addressing primary care expenditures in Washington. The report must include:

(a) How to define "primary care" for purposes of calculating primary care expenditures as a proportion of total health care expenditures, and how the definition aligns with existing definitions already implemented in Washington, including the previous report from the office of financial management and the Bree collaborative's recommendations;

(b) Barriers to the access and use of the data needed to calculate primary care expenditures, and how to overcome them;

(c) The annual progress needed for primary care expenditures to reach 12 percent of total health care expenditures in a reasonable amount of time;

(d) How and by whom it should annually be determined whether desired levels of primary care expenditures are being achieved;

(e) Methods to incentivize the achievement of desired levels of primary care expenditures;

(f)(i) Specific practices and methods of reimbursement to achieve and sustain desired levels of primary care expenditures while achieving improvements in health outcomes, experience of health care, and value from the health care system, including but not limited to: Supporting advanced, integrated primary care involving a multidisciplinary team of health and social service professionals; addressing social determinants of health within the primary care setting; leveraging innovative uses of efficient, interoperable health information technology; increasing the primary care and behavioral health workforce; and

reinforcing to patients the value of primary care, and eliminating any barriers to access.

(ii) As much as possible, the practices and methods specified must hold primary care providers accountable for improved health outcomes, not increase the administrative burden on primary care providers or overall health care expenditures in the state, strive for alignment across payers, and take into account differences in urban and rural delivery settings; and

(g) The ongoing role of the board in guiding and overseeing the development and application of primary care expenditure targets, and the implementation and evaluation of strategies to achieve them.

(3) Beginning August 1, 2023, the board shall annually submit reports to the governor and relevant committees of the legislature. To the extent possible, the reports must:

(a) Include annual primary care expenditures for the most recent year for which data is available by insurance carrier, by market or payer, in total and as a percentage of total health care expenditure;

(b) Break down annual primary care expenditures by relevant characteristics such as whether expenditures were for physical or behavioral health, by type of provider and by payment mechanism; and

(c) If necessary, identify any barriers to the reporting requirements and propose recommendations for how to overcome them.

(4) In developing the measures and reporting, the board shall consult with primary care providers and organizations representing primary care providers and review existing work in this and other states regarding primary care, including but not limited to the December 2019 report by the office of financial management, the work of the Bree collaborative, the work of the advancing integrated mental health center and the center for health workforce studies at the University of Washington, the work of the Milbank memorial fund, the work of the national academy of sciences, engineering, and medicine, and the work of the authority to strengthen primary care within state purchased health care.

**NEW SECTION. Sec. 2.** A new section is added to chapter 48.43 RCW to read as follows:

The commissioner may include an assessment of carriers' primary care expenditures in the previous plan year or anticipated for the upcoming plan year in its reviews of health plan form or rate filings. In conducting the review, the commissioner must consider any definition of primary care expenditures and any primary care expenditure targets established under section 1 of this act. The commissioner may determine the form and content of carrier primary care expenditure reporting.

Passed by the Senate February 8, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 156

[Engrossed Second Substitute Senate Bill 5600]

## REGISTERED APPRENTICESHIP PROGRAMS—VARIOUS PROVISIONS

AN ACT Relating to the sustainability and expansion of state registered apprenticeship programs; amending RCW 49.04.050; adding new sections to chapter 49.04 RCW; creating new sections; providing an effective date; and providing expiration dates.

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

**NEW SECTION. Sec. 1.** Washington state has maintained a robust registered apprenticeship system that has created tens of thousands of high-skill, high-wage careers in traditional apprenticeship programs that are financially stable and jointly managed to ensure future generations of apprentices for high demand occupations. The earn while you learn apprenticeship model opens opportunities to diverse groups and communities that have not been able to access traditional higher education and traditional apprenticeship programs in the past. The legislature recognizes that the COVID-19 pandemic has also created a significant dislocation and disruption of our workforce that can be repaired in part by reconnecting workers with innovative apprenticeships that lead to new career pathways. The legislature intends to encourage and foster new apprenticeship opportunities through programs sponsored by public and private entities. It is the intent of the legislature that apprenticeship programs seeking state registration receive prompt consideration with minimum delay. To achieve the goals of rebuilding a robust postpandemic workforce and undertaking active efforts to provide equity, diversity, inclusion, and accessibility in apprenticeship programs will take sustained effort and support.

**NEW SECTION. Sec. 2.** A new section is added to chapter 49.04 RCW to read as follows:

(1) For any existing active registered apprenticeship programs, or when a new program gains approval, the apprenticeship council must establish an economic or industry sector-based platform.

(2) The economic or industry sector-based platforms may be in the following areas: Building trades, manufacturing and engineering, health care and behavioral health, education and early learning, information and communications technology, biotechnology and life sciences, hospitality, and maritime. Any platform established under this section must have an equal number of employer and employee organization representatives. All platforms established under this section must:

- (a) Promote collaboration within their economic or industry sector;
  - (b) Periodically review the required classroom and on-the-job training standards for apprenticeship programs within their economic or industry sector;
  - (c) Collaborate with any relevant centers of excellence in RCW 28B.50.902;
- and

(d) Review applications for new apprenticeship programs in the platform's economic or industry sector and make recommendations on the approval or rejection of the applications, or suggested modifications to the applicant apprenticeship programs, to the apprenticeship council.

(3) The department of labor and industries must assign an industry liaison to support each platform.

(4) The platform must report at least annually to the apprenticeship council on the following within their economic or industry sector:

- (a) Participation in existing approved apprenticeship programs;
- (b) Progress in developing new apprenticeship programs; and
- (c) Any review of required classroom and on-the-job training standards.

(5) The department must consult with the United States department of labor about opportunities for Washington state employers to participate in apprenticeship programs, and to pursue federal grants on behalf of state registered apprentices and apprenticeships programs.

**NEW SECTION. Sec. 3.** A new section is added to chapter 49.04 RCW to read as follows:

The governor shall establish a committee of state agency human resources managers to undertake the development of appropriate apprenticeship programs for state agencies. The committee will involve the exclusive collective bargaining representatives and public sector agencies conducting work study programs that enable high school graduates to achieve entry-level employment and placement in registered apprenticeship programs as potential apprenticeship pathways are considered and developed. The current registered apprenticeship program for industrial insurance at the department of labor and industries shall be consulted as a model for other agencies.

**Sec. 4.** RCW 49.04.050 and 2011 c 308 s 4 are each amended to read as follows:

(1) To be eligible for registration, apprenticeship program standards must conform to the rules adopted under this chapter.

(2) The apprenticeship council must require new apprenticeship programs seeking approval to provide an assessment for future sustainability of the program.

(3) When evaluating applications for new apprenticeship programs, the apprenticeship council must consider whether graduating apprentices will move toward a living wage, the availability of a career ladder to graduating apprentices, or the existence of other nonwage benefits as factors in the approval process.

(4) The apprenticeship council must annually report to the appropriate committees of the legislature a list of apprenticeship programs that have applied for state approval, whether those applicant apprenticeship programs have been approved or not approved, and the reasons for any denials of approval by the apprenticeship council. The apprenticeship council must provide its first report to the legislature by December 15, 2022.

**NEW SECTION. Sec. 5.** A new section is added to chapter 49.04 RCW to read as follows:

(1) A grant program for technology and remote learning infrastructure modernization of state registered apprenticeships is established.

(2) The department of labor and industries must manage and oversee the grant program and may establish application procedures and criteria for the receipt of grants. The department of labor and industries must require grant applications to include a plan to sustain the technology and remote learning infrastructure over time.

(3) Subject to the availability of funds appropriated for this specific purpose, the department of labor and industries may award one-time grants to state registered apprenticeship programs for modernizing technology and remote learning infrastructure.

(4) No funds from the accident fund established in RCW 51.44.010 or the medical aid fund established in RCW 51.44.020 may be used in funding the grant program established under this section.

**NEW SECTION. Sec. 6.** A new section is added to chapter 49.04 RCW to read as follows:

(1) A grant program for wrap-around support services to mitigate barriers to beginning or participating in state registered apprenticeship programs is established. Support services shall include provisions for child care, health care, transportation to job sites, and other support services necessary to mitigate barriers to beginning or participating in state registered apprenticeship programs.

(2) The department of labor and industries must manage and oversee the grant program and may establish application procedures and criteria for the receipt of grants.

(3) Subject to the availability of funds appropriated for this specific purpose, the department of labor and industries may award grants to nonprofit organizations and state registered apprenticeship training committees that support individuals currently in, or seeking to enter, state registered apprenticeship programs or apprenticeship council recognized apprenticeship preparation programs by providing, or connecting apprentices to, wrap-around services, including child care, professional clothing, required tools, or transportation.

(4) No funds from the accident fund established in RCW 51.44.010 or the medical aid fund established in RCW 51.44.020 may be used in funding the grant program established under this section.

**NEW SECTION. Sec. 7.** A new section is added to chapter 49.04 RCW to read as follows:

(1) A grant program for updating equipment in state registered apprenticeship programs is established.

(2) The department of labor and industries must manage and oversee the grant program and may establish application procedures and criteria for the receipt of grants.

(3) Subject to the availability of funds appropriated for this specific purpose, the department of labor and industries may award grants to state registered apprenticeship programs to upgrade equipment necessary for the program.

(4) No funds from the accident fund established in RCW 51.44.010 or the medical aid fund established in RCW 51.44.020 may be used in funding the grant program established under this section.

**NEW SECTION. Sec. 8.** A new section is added to chapter 49.04 RCW to read as follows:

(1) Subject to the availability of funds appropriated for this specific purpose, the department of labor and industries must provide vouchers to cover the cost of driver's education courses for minors enrolled in a state registered apprenticeship program.

(2) The department of labor and industries may establish application and award procedures for implementing this section.

(3) No funds from the accident fund established in RCW 51.44.010 or the medical aid fund established in RCW 51.44.020 may be used in funding the voucher program established under this section.

**NEW SECTION. Sec. 9.** A new section is added to chapter 49.04 RCW to read as follows:

(1) The department of labor and industries must conduct an apprentice retention study of state registered apprentices. The study must collect data from apprentices that are six months into their apprenticeships on the barriers and challenges new apprentices encounter that may prevent them from continuing their apprenticeships.

(2) The department of labor and industries must aggregate the data collected in subsection (1) of this section by trade and post the data on a dashboard on its public website annually.

(3) The department of labor and industries must use the data collected under this section to work with apprenticeship coordinators to implement an early alert response system to connect apprentices with needed support and wrap-around services.

(4) By December 1, 2026, and in compliance with RCW 43.01.036, the department of labor and industries must submit a report to the legislature on its key findings on the barriers and challenges in retaining apprentices and its recommendations.

(5) This section expires December 31, 2027.

**NEW SECTION. Sec. 10.** (1) The department of labor and industries must develop a list of options for incentivizing apprenticeship utilization in the private sector, especially in nontraditional industries or smaller employers that have lower apprenticeship utilization rates. The department must also assess the lack of local apprenticeship programs in rural communities and the logistical burdens, including travel time, apprentices in rural communities encounter when participating in approved apprenticeship programs and develop policy options for alleviating these issues.

(2) By September 30, 2023, and in compliance with RCW 43.01.036, the department of labor and industries must submit a report to the legislature detailing the list of options for incentivizing apprenticeship utilization and the policy option recommendations addressing apprenticeship issues in rural communities developed in subsection (1) of this section.

(3) This section expires December 31, 2023.

**NEW SECTION. Sec. 11.** (1) By December 1, 2022, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction, in collaboration with career connect Washington, must submit a report to the legislature detailing the requirements and options for, and any barriers to, high schools in this state having a career pathways day once per year for students in their junior year of high school, including any recommendations on necessary legislative actions.

(2) By December 1, 2022, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction, in collaboration with the apprenticeship section of the department of labor and industries, must submit a

report to the legislature to identify opportunities and challenges for expansion, enhancement, and sustainability of high quality career and technical education. The report must identify existing state registered preapprenticeship programs and existing high school career and technical education programs that could be eligible to become state registered preapprenticeship programs.

(3) This section expires December 31, 2023.

NEW SECTION. Sec. 12. Section 2 of this act takes effect July 1, 2023.

NEW SECTION. Sec. 13. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 7, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 157

[Second Substitute Senate Bill 5616]

### ACCOUNTS AND FUNDS—VARIOUS PROVISIONS

AN ACT Relating to accounts; amending RCW 43.330.767, 46.68.067, 38.52.105, 41.05.143, 41.06.280, 43.08.190, 43.09.475, 46.68.290, 71.24.580, 82.08.170, and 90.50A.090; reenacting and amending RCW 43.70.715, 43.155.050, 47.56.876, 79.105.150, and 82.14.310; reenacting and amending 2018 c 298 s 7008 (uncodified); reenacting RCW 43.79.550, 43.79.555, 43.79.557, and 28A.300.820; adding a new section to chapter 43.79 RCW; creating a new section; repealing RCW 43.60A.153 and 43.79.467; and providing an effective date.

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

**Sec. 1.** RCW 43.330.767 and 2021 c 64 s 5 are each amended to read as follows:

(1) The manufacturing cluster acceleration (~~((subaccount is established in the economic development strategic reserve))~~) account is created in the state treasury. All receipts from appropriations made to the manufacturing cluster acceleration (~~((subaccount))~~) account shall be deposited into the (~~((subaccount))~~) account. Moneys in the account may be spent only after appropriation.

(2) The department may make expenditures from the (~~((subaccount))~~) account to support regional cluster acceleration strategies, including: Supporting projects to assist manufacturers to diversify their customer base and supply chain, supporting pilot or demonstration manufacturing projects coordination with organized cluster initiatives, and supporting projects that are intended to increase manufacturing and research and development jobs regionally.

(3) The department is encouraged to seek match funds for any funds appropriated to this account (~~((subaccount))~~) and may utilize funds to match nonstate funds being expended on a specific project that aligns with the purpose of this section.

**Sec. 2.** RCW 46.68.067 and 2021 c 240 s 15 are each amended to read as follows:

The driver licensing technology support account is created (~~((as a subaccount))~~) in the highway safety fund under RCW 46.68.060. Moneys in the (~~((subaccount))~~) account may be spent only after appropriation. Expenditures

from the ((subaccount)) account may be used only for supporting information technology systems used by the department to communicate with the judicial information system, manage driving records, and implement court orders.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.79 RCW to read as follows:

The clean energy transition workforce account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to support workers who are affected by the state's transition away from fossil fuels to a clean energy economy and associated program administrative expenses.

**Sec. 4.** RCW 43.79.550 and 2021 c 334 s 958 are each reenacted to read as follows:

The forest resiliency account is created in the state treasury. Revenues to the account shall consist of appropriations and transfers by the legislature and all other funding directed for deposit into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account are dedicated to activities that include but are not limited to forest health, carbon sequestration, and any other activity that helps protect the forests of Washington.

**Sec. 5.** RCW 43.79.555 and 2021 c 334 s 1902 are each reenacted to read as follows:

The Washington rescue plan transition account is created in the state treasury. Moneys in the account may be spent only after appropriation. Revenues to the account consist of moneys directed by the legislature to the account. Allowable uses of moneys in the account include responding to the impacts of the COVID-19 pandemic including those related to education, human services, health care, and the economy. In addition, the legislature may appropriate from the account to continue activities begun with, or augmented with, COVID-19 related federal funding.

**Sec. 6.** RCW 43.79.557 and 2021 c 334 s 1903 are each reenacted to read as follows:

The coronavirus state fiscal recovery fund is created in the state treasury. Moneys in the account may be spent only after appropriation. All federal moneys received by the state pursuant to the American rescue plan act of 2021, state fiscal recovery fund, P.L. 117-2, subtitle M, section 9901, must be deposited in the account. The legislature may appropriate from the account only for the purposes authorized in that section of the federal act.

**Sec. 7.** RCW 43.70.715 and 2021 c 334 s 1004 are each reenacted and amended to read as follows:

(1) The COVID-19 public health response account is created in the custody of the state treasurer. The account shall consist of funds appropriated by the legislature and grants received by the department of health for activities in response to the coronavirus pandemic (COVID-19). Only the secretary, or the secretary's designee, may authorize expenditures from the account for costs related to the public health response to COVID-19, subject to any limitations imposed by grant funding deposited into the account. The COVID-19 public health response account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.



(2)(a) The legislature finds that a safe, efficient, and effective delivery of vaccinations is of the utmost importance for restoring societal and economic functions. As we learn more about the virus, the vaccine, and challenges to vaccine allocation and distribution, it is anticipated that the state's COVID-19 vaccination distribution plan will evolve. To that end, the legislature has provided flexibility by funding expenditures for testing, contact tracing, mitigation activities, vaccine administration and distribution, and other allowable uses for the state, local health jurisdictions, and tribes at the discretion of the secretary and without an appropriation. However, to maintain fiscal control and to ensure spending priorities align, the department is required to collaborate and communicate with the chairs and ranking members of the health care and fiscal committees of the legislature and local health jurisdictions in advance of any significant revision of the state's COVID-19 vaccination plan and to provide regular updates on its implementation and spending.

(b) As part of the public health response to COVID-19, the expenditures from the account must be used to effectively administer the vaccine for COVID-19 and conduct testing and contact tracing. The department must ensure that COVID-19 outreach is accessible, culturally and linguistically appropriate, and that it includes community-driven partnerships and strategies.

(c) When making expenditures for administering the vaccine for COVID-19, the department must focus on identifying persons for vaccination, prioritizing underserved, underrepresented, and hard-to-reach communities, making the vaccine accessible, and providing support to schools for safe reopening. Strategies for vaccine distribution shall include the establishment and expansion of community vaccination centers, mobile vaccination units, reporting enhancements, in-home visits for vaccinations for the elderly, and transportation of individuals to vaccination sites.

(d) When making expenditures regarding testing and contact tracing, the department must provide equitable access, prioritize underserved, underrepresented, and hard-to-reach communities, and provide support and resources to facilitate the safe reopening of schools while minimizing community spread of the virus.

(e) The department may also make expenditures from the account related to developing the public health workforce using funds granted by the federal government for that purpose in section 2501, the American rescue plan act of 2021, P.L. 117-2.

(3) When making expenditures from the account, the department must include an emphasis on public communication regarding the availability and accessibility of the vaccine and testing, and the importance of vaccine and testing availability to the safe reopening of the state.

(4)(a) The department must report to the fiscal and health care committees of the legislature on a monthly basis regarding its COVID-19 response.

(b) To the extent that it is available, the report must include data regarding vaccine distribution, testing, and contact tracing, as follows:

(i) The number of vaccines administered per day, including regional data regarding the location and age groups of persons receiving the vaccine, specifically identifying hard-to-reach communities in which vaccines were administered; and

(ii) The number of tests conducted per week, including data specifically addressing testing conducted in hard-to-reach communities.

(c) The first monthly report is due no later than one month from February 19, 2021. Monthly reports are no longer required upon the department's determination that the remaining balance of the COVID-19 (~~(public health))~~ public health response account is less than \$100,000.

**Sec. 8.** RCW 28A.300.820 and 2021 c 334 s 1901 are each reenacted to read as follows:

The elementary and secondary school emergency relief III account is created in the state treasury. Revenues attributable to section 2001, the American rescue plan act of 2021, P.L. 117-2 must be deposited into the account. Moneys in the account may be spent only after appropriation.

**Sec. 9.** 2018 c 298 s 7008 (uncodified) is reenacted and amended to read as follows:

The energy efficiency account is hereby created in the state treasury. The sums deposited in the energy efficiency account shall be appropriated and expended for loans, loan guarantees, and grants for projects that encourage the establishment and use of innovative and sustainable industries for renewable energy and energy efficiency technology. The balance of state funds, federal funds, and loan repayments, from the energy recovery act account, are deposited in this account. Moneys in the account may also be appropriated and expended for loans, loan guarantees, and grants for projects that achieve reductions in greenhouse gas emissions for emissions-intensive, trade-exposed industries.

**Sec. 10.** RCW 38.52.105 and 2021 c 334 s 963 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 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. (~~(During the 2019-2021 and 2021-2023 fiscal biennia, expenditures))~~) 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. (~~(During the 2017-2019 and 2019-2021 fiscal biennia, the))~~) The legislature may direct the treasurer to make transfers of moneys in the disaster response account to the state general fund. (~~(It is the intent of the legislature that these policies will be continued in subsequent fiscal biennia-))~~)

**Sec. 11.** RCW 41.05.143 and 2018 c 260 s 27 are each amended to read as follows:

(1) The uniform medical plan benefits administration account is created in the custody of the state treasurer. Only the director or the director's designee may authorize expenditures from the account. Moneys in the account shall be used exclusively for contracted expenditures for uniform medical plan claims

administration, data analysis, utilization management, preferred provider administration, and activities related to benefits administration where the level of services provided pursuant to a contract fluctuate as a direct result of changes in uniform medical plan enrollment. Moneys in the account may also be used for administrative activities required to respond to new and unforeseen conditions that impact the uniform medical plan, but only when the authority and the office of financial management jointly agree that such activities must be initiated prior to the next legislative session.

(2) Receipts from amounts due from or on behalf of uniform medical plan enrollees for expenditures related to benefits administration, including moneys disbursed from the public employees' and retirees' insurance account, shall be deposited into the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. All proposals for allotment increases shall be provided to the house of representatives appropriations committee and to the senate ways and means committee at the same time as they are provided to the office of financial management.

(3) The uniform dental plan benefits administration account is created in the custody of the state treasurer. Only the director or the director's designee may authorize expenditures from the account. Moneys in the account shall be used exclusively for contracted expenditures related to benefits administration for the uniform dental plan as established under RCW 41.05.140. Receipts from amounts due from or on behalf of uniform dental plan enrollees for expenditures related to benefits administration, including moneys disbursed from the public employees' and retirees' insurance account, shall be deposited into the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

~~(4) ((The public employees' benefits board medical benefits administration account is created in the custody of the state treasurer. Only the director or the director's designee may authorize expenditures from the account. Moneys in the account shall be used exclusively for contracted expenditures related to claims administration, data analysis, utilization management, preferred provider administration, and other activities related to benefits administration for self-insured medical plans. Receipts from amounts due from or on behalf of enrollees for expenditures related to benefits administration, including moneys disbursed from the public employees' and retirees' insurance account, shall be deposited into the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.~~

~~(5))~~ The school employees' benefits board medical benefits administrative account is created in the custody of the state treasurer. Only the director or the director's designee may authorize expenditures from the account. Moneys in the account shall be used exclusively for school employees' benefits board contracted expenditures related to claims administration, data analysis, utilization management, preferred provider administration, and other activities related to benefits administration for self-insured medical plans. Receipts from amounts due from or on behalf of enrollees for expenditures related to benefits administration, including moneys disbursed from the school employees' insurance account, shall be deposited into the account. The account is subject to

allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

~~((6))~~ (5) The school employees' benefits board dental benefits administration account is created in the custody of the state treasurer. Only the director or the director's designee may authorize expenditures from the account. Moneys in the account shall be used exclusively for school employees' benefits board contracted expenditures related to benefits administration for the self-insured dental plan as established under RCW 41.05.140. Receipts from amounts due from or on behalf of the self-insured dental plan enrollees for expenditures related to benefits administration, including moneys disbursed from the school employees' insurance account, shall be deposited into the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

**Sec. 12.** RCW 41.06.280 and 2021 c 334 s 964 are each amended to read as follows:

(1) There is hereby created a fund within the state treasury, designated as the "personnel service fund," to be used by the office of financial management as a revolving fund for the payment of salaries, wages, and operations required for the administration of the provisions of this chapter, applicable provisions of chapter 41.04 RCW, and chapter 41.60 RCW. An amount not to exceed one and one-half percent of the salaries and wages for all positions in the classified service in each of the agencies subject to this chapter, except the institutions of higher education, shall be charged to the operations appropriations of each agency and credited to the personnel service fund as the allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, the amount shall be charged against the allotments pro rata, at a rate to be fixed by the director from time to time which, together with income derived from services rendered under RCW 41.06.080, will provide the office of financial management with funds to meet its anticipated expenditures during the allotment period, including the training requirements in RCW 41.06.500 and 41.06.530. All revenues, net of expenditures, previously derived from services provided by the department of enterprise services under RCW 41.06.080 must be transferred to the enterprise services account.

(2) The director shall fix the terms and charges for services rendered by the office of financial management pursuant to RCW 41.06.080, which amounts shall be credited to the personnel service fund and charged against the proper fund or appropriation of the recipient of such services on a monthly basis. Payment for services so rendered under RCW 41.06.080 shall be made on a monthly basis to the state treasurer and deposited in the personnel service fund.

(3) Moneys from the personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the office of financial management.

(4) ~~((During the 2019-2021 and 2021-2023 fiscal biennia, the))~~ The office of financial management may use the personnel service fund to administer an employee transit pass program and other employment benefits. The office of financial management must bill state agencies for the total cost of administering the program and payments received from agencies must be deposited in the personnel service fund.

~~((5) During the 2019-2021 fiscal biennium, the office of financial management may use the personnel service fund to administer an employee flexible spending arrangement. The office of financial management must bill state agencies for the total cost of administering the program and payments received from agencies must be deposited in the personnel service fund.))~~

**Sec. 13.** RCW 43.08.190 and 2021 c 334 s 969 are each amended to read as follows:

There is hereby created a fund within the state treasury to be known as the "state treasurer's service fund." Such fund shall be used solely for the payment of costs and expenses incurred in the operation and administration of the state treasurer's office.

Moneys shall be allocated monthly and placed in the state treasurer's service fund equivalent to a maximum of one percent of the trust and treasury average daily cash balances from the earnings generated under the authority of RCW 43.79A.040 and 43.84.080 other than earnings generated from investment of balances in funds and accounts specified in RCW 43.79A.040(4)(c). The allocation shall precede the distribution of the remaining earnings as prescribed under RCW 43.79A.040 and 43.84.092. The state treasurer shall establish a uniform allocation rate for all funds and accounts; except that the state treasurer may negotiate a different allocation rate with any state agency that has independent authority over funds not statutorily required to be held in the state treasury or in the custody of the state treasurer. In no event shall the rate be less than the actual costs incurred by the state treasurer's office. If no rate is separately negotiated, the default rate for any funds held shall be the rate set for funds held pursuant to statute.

~~((During the 2019-2021 and 2021-2023 fiscal biennia, the))~~ The legislature may direct the state treasurer to make transfers of money in the state treasurer's service fund to the state general fund. ((It is the intent of the legislature that this policy will be continued in subsequent biennia.))

**Sec. 14.** RCW 43.09.475 and 2021 c 334 s 970 are each amended to read as follows:

The performance audits of government account is hereby created in the custody of the state treasurer. Revenue identified in RCW 82.08.020(5) and 82.12.0201 shall be deposited in the account. Money in the account shall be used to fund the performance audits and follow-up performance audits under RCW 43.09.470 and shall be expended by the state auditor in accordance with chapter 1, Laws of 2006. Only the state auditor or the state auditor'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. ~~((During the 2019-2021 and 2021-2023 fiscal biennia, the))~~ The performance audits of government account may be appropriated for the joint legislative audit and review committee, the legislative evaluation and accountability program committee, and for the office of financial management's(s) performance audit and compliance audit activities. During the 2019-2021 and 2021-2023 fiscal biennia, the performance audits of government account may be appropriated for the superintendent of public instruction, the department of fish and wildlife, and audits of school districts. In addition, during the 2019-2021 and 2021-2023 fiscal biennia the account may be used to fund the

office of financial management's contract for the compliance audit of the state auditor and audit activities at the department of revenue.

**Sec. 15.** RCW 43.155.050 and 2021 c 334 s 979 and 2021 c 332 s 7031 are each reenacted and amended to read as follows:

The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and grants and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated or transferred to the water pollution control revolving fund and the drinking water assistance account to provide for state match requirements under federal law. Not more than twenty percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans and grants, emergency loans and grants, or loans and grants for capital facility planning under this chapter. Not more than ten percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated as grants for preconstruction, emergency, capital facility planning, and construction projects. During the 2017-2019 and 2019-2021 fiscal biennia, the legislature may appropriate moneys from the account for activities related to rural economic development, the growth management act, the aviation revitalization loan program, the community economic revitalization board broadband program, and the voluntary stewardship program. During the 2021-2023 biennium, the legislature may appropriate moneys from the account for activities related to the aviation revitalization board. During the 2019-2021 fiscal biennia, the legislature may direct the state treasurer to make transfers of moneys in the public works assistance account to the education legacy trust account. During the 2019-2021 and 2021-2023 fiscal biennia, the legislature may direct the state treasurer to make transfers of moneys in the public works assistance account to the statewide broadband account. (~~During the 2021-2023 fiscal biennium, the~~) The legislature may appropriate moneys from the public works assistance account for activities related to the voluntary stewardship program, rural economic development, and the growth management act.

**Sec. 16.** RCW 46.68.290 and 2021 c 333 s 713 are each amended to read as follows:

(1) The transportation partnership account is hereby created in the (~~state treasury~~) motor vehicle fund. All distributions to the account from RCW 46.68.090 must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account must be used only for projects or improvements identified as 2005 transportation partnership projects or improvements in the omnibus transportation appropriations act, including any principal and interest on bonds authorized for the projects or improvements.

(2) The legislature finds that:

(a) Citizens demand and deserve accountability of transportation-related programs and expenditures. Transportation-related programs must continuously improve in quality, efficiency, and effectiveness in order to increase public trust;

(b) Transportation-related agencies that receive tax dollars must continuously improve the way they operate and deliver services so citizens receive maximum value for their tax dollars; and

(c) Fair, independent, comprehensive performance audits of transportation-related agencies overseen by the elected state auditor are essential to improving the efficiency, economy, and effectiveness of the state's transportation system.

(3) For purposes of chapter 314, Laws of 2005:

(a) "Performance audit" means an objective and systematic assessment of a state agency or agencies or any of their programs, functions, or activities by the state auditor or designee in order to help improve agency efficiency, effectiveness, and accountability. Performance audits include economy and efficiency audits and program audits.

(b) "Transportation-related agency" means any state agency, board, or commission that receives funding primarily for transportation-related purposes. At a minimum, the department of transportation, the transportation improvement board or its successor entity, the county road administration board or its successor entity, and the traffic safety commission are considered transportation-related agencies. The Washington state patrol and the department of licensing shall not be considered transportation-related agencies under chapter 314, Laws of 2005.

(4) Within the authorities and duties under chapter 43.09 RCW, the state auditor shall establish criteria and protocols for performance audits. Transportation-related agencies shall be audited using criteria that include generally accepted government auditing standards as well as legislative mandates and performance objectives established by state agencies. Mandates include, but are not limited to, agency strategies, timelines, program objectives, and mission and goals as required in RCW 43.88.090.

(5) Within the authorities and duties under chapter 43.09 RCW, the state auditor may conduct performance audits for transportation-related agencies. The state auditor shall contract with private firms to conduct the performance audits.

(6) The audits may include:

(a) Identification of programs and services that can be eliminated, reduced, consolidated, or enhanced;

(b) Identification of funding sources to the transportation-related agency, to programs, and to services that can be eliminated, reduced, consolidated, or enhanced;

(c) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;

(d) Analysis and recommendations for pooling information technology systems used within the transportation-related agency, and evaluation of information processing and telecommunications policy, organization, and management;

(e) Analysis of the roles and functions of the transportation-related agency, its programs, and its services and their compliance with statutory authority and recommendations for eliminating or changing those roles and functions and ensuring compliance with statutory authority;

(f) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the transportation-related agency

carry out reasonably and properly those functions vested in the agency by statute;

(g) Verification of the reliability and validity of transportation-related agency performance data, self-assessments, and performance measurement systems as required under RCW 43.88.090;

(h) Identification of potential cost savings in the transportation-related agency, its programs, and its services;

(i) Identification and recognition of best practices;

(j) Evaluation of planning, budgeting, and program evaluation policies and practices;

(k) Evaluation of personnel systems operation and management;

(l) Evaluation of purchasing operations and management policies and practices;

(m) Evaluation of organizational structure and staffing levels, particularly in terms of the ratio of managers and supervisors to nonmanagement personnel; and

(n) Evaluation of transportation-related project costs, including but not limited to environmental mitigation, competitive bidding practices, permitting processes, and capital project management.

(7) Within the authorities and duties under chapter 43.09 RCW, the state auditor must provide the preliminary performance audit reports to the audited state agency for comment. The auditor also may seek input on the preliminary report from other appropriate officials. Comments must be received within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the state auditor. The final performance audit report shall include the objectives, scope, and methodology; the audit results, including findings and recommendations; the agency's response and conclusions; and identification of best practices.

(8) The state auditor shall provide final performance audit reports to the citizens of Washington, the governor, the joint legislative audit and review committee, the appropriate legislative committees, and other appropriate officials. Final performance audit reports shall be posted on the internet.

(9) The audited transportation-related agency is responsible for follow-up and corrective action on all performance audit findings and recommendations. The audited agency's plan for addressing each audit finding and recommendation shall be included in the final audit report. The plan shall provide the name of the contact person responsible for each action, the action planned, and the anticipated completion date. If the audited agency does not agree with the audit findings and recommendations or believes action is not required, then the action plan shall include an explanation and specific reasons.

The office of financial management shall require periodic progress reports from the audited agency until all resolution has occurred. The office of financial management is responsible for achieving audit resolution. The office of financial management shall annually report by December 31st the status of performance audit resolution to the appropriate legislative committees and the state auditor. The legislature shall consider the performance audit results in connection with the state budget process.

The auditor may request status reports on specific audits or findings.



(10) For the period from July 1, 2005, until June 30, 2007, the amount of \$4,000,000 is appropriated from the transportation partnership account to the state auditors office for the purposes of subsections (2) through (9) of this section.

(11) During the 2015-2017 fiscal biennium, the legislature may transfer from the transportation partnership account to the connecting Washington account such amounts as reflect the excess fund balance of the transportation partnership account.

(12) During the 2019-2021 and 2021-2023 fiscal biennia, the legislature may direct the state treasurer to make transfers of moneys in the transportation partnership account to the connecting Washington account, the motor vehicle fund, the Tacoma Narrows toll bridge account, and the capital vessel replacement account.

**Sec. 17.** RCW 47.56.876 and 2021 c 333 s 709 and 2021 c 136 s 1 are each reenacted and amended to read as follows:

(1) A special account to be known as the state route number 520 civil penalties account is created in the state treasury. All state route number 520 bridge replacement and HOV program civil penalties generated from the nonpayment of tolls on the state route number 520 corridor must be deposited into the account, as provided under RCW 47.56.870(4)(b)(vii). Moneys in the account may be spent only after appropriation. Expenditures from the account must be used to fund legal obligations associated with bonds and loans associated with the construction and operation of state route number 520 under circumstances where the toll revenue collections at the time are not sufficient to fully cover such legal obligations, and then may be used to fund any project within the state route number 520 bridge replacement and HOV program, including mitigation. ~~((During the 2013-2015 and 2015-2017 fiscal biennia, the legislature may transfer from the state route number 520 civil penalties account to the state route number 520 corridor account such amounts as reflect the excess fund balance of the state route number 520 civil penalties account. Funds transferred must be used solely for capital expenditures for the state route number 520 bridge replacement and HOV project.))~~ The legislature may direct the state treasurer to make transfers of moneys in the state route number 520 civil penalties account to the state route number 520 corridor account. During the 2021-2023 fiscal biennium, the legislature may direct the state treasurer to transfer moneys in the state route number 520 civil penalties account to the motor vehicle account.

(2) For purposes of this section, "legal obligations associated with bonds and loans" includes, but is not limited to, debt service and all other activities necessary to comply with financial covenants associated with state route number 520, costs associated with the civil penalties program, and operation and maintenance costs.

**Sec. 18.** RCW 71.24.580 and 2021 c 334 s 989 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 (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. ~~((During the 2019-2021 and 2021-2023 fiscal biennia, the))~~ 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.

**Sec. 19.** RCW 79.105.150 and 2021 c 334 s 996 and 2021 c 209 s 16 are each reenacted and amended to read as follows:

(1) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to the lands; and for volunteer cooperative fish and game projects. (~~During the 2017-2019, 2019-2021, and 2021-2023 fiscal biennia, the~~) The aquatic lands enhancement account may be used to support the shellfish program, the ballast water program, hatcheries, the Puget Sound toxic sampling program and steelhead mortality research at the department of fish and wildlife, the knotweed program at the department of agriculture, actions at the University of Washington for reducing ocean acidification, which may include the creation of a center on ocean acidification, the Puget SoundCorps program, and support of the marine resource advisory council and the Washington coastal marine advisory council. During the 2017-2019 and 2019-2021 fiscal biennia, the legislature may transfer from the aquatic lands enhancement account to the geoduck aquaculture research account for research related to shellfish aquaculture. During the 2015-2017 fiscal biennium, the legislature may transfer moneys from the aquatic lands enhancement account to the marine resources stewardship trust account.

(2) In providing grants for aquatic lands enhancement projects, the recreation and conservation funding board shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications;

(b) Utilize the statement of environmental benefits, consideration, except as provided in RCW 79.105.610, of whether the applicant is a Puget Sound partner, as defined in RCW 90.71.010, whether a project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, and except as otherwise provided in RCW 79.105.630, and effective one calendar year following the development and statewide availability of urban forestry management plans and ordinances under RCW 76.15.090, whether the applicant is an entity that has been recognized, and what gradation of recognition was received, in the evergreen community designation program created in RCW 76.15.090 in its prioritization and selection process; and

(c) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants.

(3) To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270.

(4) The department shall consult with affected interest groups in implementing this section.

(5) Any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

**Sec. 20.** RCW 82.08.170 and 2021 c 334 s 998 are each amended to read as follows:

(1) Except as provided in subsections (4) and (5) of this section, during the months of January, April, July, and October of each year, the state treasurer must make the transfers required under subsections (2) and (3) of this section from the liquor excise tax fund and then the apportionment and distribution of all remaining moneys in the liquor excise tax fund to the counties, cities, and towns in the following proportions: (a) Twenty percent of the moneys in the liquor excise tax fund must be divided among and distributed to the counties of the state in accordance with the provisions of RCW 66.08.200; and (b) eighty percent of the moneys in the liquor excise tax fund must be divided among and distributed to the cities and towns of the state in accordance with the provisions of RCW 66.08.210.

(2) Each fiscal quarter and prior to making the twenty percent distribution to counties under subsection (1)(a) of this section, the treasurer shall transfer to the liquor revolving fund created in RCW 66.08.170 sufficient moneys to fund the allotments from any legislative appropriations for county research and services as provided under chapter 43.110 RCW.

(3) During the months of January, April, July, and October of each year, the state treasurer must transfer two million five hundred thousand dollars from the liquor excise tax fund to the state general fund.

(4) During calendar year 2012, the October distribution under subsection (1) of this section and the July and October transfers under subsections (2) and (3) of this section must not be made. During calendar year 2013, the January, April, and July distributions under subsection (1) of this section and transfers under subsections (2) and (3) of this section must not be made.

(5) ~~((During the 2015-2017, 2019-2021, and 2021-2023 fiscal biennia, the))~~  
The liquor excise tax fund may be appropriated for the local government fiscal note program in the department of commerce. ((It is the intent of the legislature to continue this policy in the subsequent fiscal biennium.))

**Sec. 21.** RCW 82.14.310 and 2021 c 334 s 999 and 2021 c 296 s 2 are each reenacted and amended to read as follows:

(1) The county criminal justice assistance account is created in the state treasury. Beginning in fiscal year 2000, the state treasurer must transfer into the county criminal justice assistance account from the general fund the sum of \$23,200,000 divided into four equal deposits occurring on July 1, October 1, January 1, and April 1. For each fiscal year thereafter, the state treasurer must increase the total transfer by the fiscal growth factor, as defined in RCW 43.135.025, forecast for that fiscal year by the office of financial management in November of the preceding year.

(2) The moneys deposited in the county criminal justice assistance account for distribution under this section, less any moneys appropriated for purposes under subsections (4) and (5) of this section, must be distributed at such times as

distributions are made under RCW 82.44.150 and on the relative basis of each county's funding factor as determined under this subsection.

(a) A county's funding factor is the sum of:

(i) The population of the county, divided by 1,000, and multiplied by two-tenths;

(ii) The crime rate of the county, multiplied by three-tenths; and

(iii) The annual number of criminal cases filed in the county superior court, for each 1,000 in population, multiplied by five-tenths.

(b) Under this section and RCW 82.14.320 and 82.14.330:

(i) The population of the county or city is as last determined by the office of financial management;

(ii) The crime rate of the county or city is the annual occurrence of specified criminal offenses, as calculated in the most recent annual report on crime in Washington state as published by the Washington association of sheriffs and police chiefs, for each 1,000 in population;

(iii) The annual number of criminal cases filed in the county superior court must be determined by the most recent annual report of the courts of Washington, as published by the administrative office of the courts;

(iv) Distributions and eligibility for distributions in the 1989-1991 biennium must be based on 1988 figures for both the crime rate as described under ~~((f(b)))~~ (b)(ii) of this subsection and the annual number of criminal cases that are filed as described under ~~((f(b)))~~ (b)(iii) of this subsection. Future distributions must be based on the most recent figures for both the crime rate as described under ~~((f(b)))~~ (b)(ii) of this subsection and the annual number of criminal cases that are filed as described under ~~((f(b)))~~ (b)(iii) of this subsection.

(3) Moneys distributed under this section must be expended exclusively for criminal justice purposes. Except after May 13, 2021, through December 31, 2023, these funds may not be used to replace or supplant existing funding. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil or juvenile justice system occurs, and which includes (a) domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020, and (b) during the 2001-2003 fiscal biennium, juvenile dispositional hearings relating to petitions for at-risk youth, truancy, and children in need of services. Existing funding for purposes of this subsection is defined as calendar year 1989 actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures.

(4) Not more than five percent of the funds deposited to the county criminal justice assistance account may be available for appropriations for enhancements to the state patrol crime laboratory system and the continuing costs related to these enhancements. Funds appropriated from this account for such enhancements may not supplant existing funds from the state general fund.

(5) ~~((During the 2017-2019 fiscal biennium, the sum of \$153,000, and during the 2019-2021 and 2021-2023 fiscal biennia))~~ Each fiscal biennium, the

sum of \$510,000, may be appropriated for the Washington state patrol to provide investigative assistance and report services to assist local law enforcement agencies to prosecute criminals. ~~((It is the intent of the legislature that this policy will be continued in subsequent fiscal biennia.))~~

**Sec. 22.** RCW 90.50A.090 and 2021 c 334 s 1000 are each amended to read as follows:

(1) The water pollution control revolving administration account is created in the state treasury. All receipts from charges authorized in this section must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only in a manner consistent with this section.

(2) The department is authorized to assess administration charges as a portion of the debt service for loans issued under the water pollution control revolving fund created in RCW 90.50A.020. The sole purpose of assessing administration charges is to predictably and adequately fund the department's costs of administering the water pollution control revolving fund loan program, as identified in subsection (5) of this section. The department must assess administration charges on each water pollution control revolving fund loan at the point the loan enters repayment status, after July 28, 2013, and rule changes are adopted to implement the administration charge. Loans that are at an interest rate below the established administration charge rate are exempt from the administration charge.

(3) The water pollution control revolving administration account consists of:

(a) Any administration charge levied by the department in conjunction with administration of the water pollution control revolving fund; and

(b) Any other revenues derived from gifts, grants, or bequests pledged to the state for the purpose of administering the water pollution control revolving fund.

(4) The state treasurer may invest and reinvest moneys in the water pollution control revolving administration account in the manner provided by law. All earnings from such investment and reinvestment must be credited to the water pollution control revolving administration account.

(5) Moneys in the water pollution control revolving administration account are to be used for the following water pollution control revolving fund loan program costs:

(a) Administration costs associated with conducting application processes, managing contracts, collecting loan repayments, managing the revolving fund, providing technical assistance, and meeting state and federal reporting requirements; and

(b) Information and data system costs associated with loan tracking and fund management.

(6) Each biennium, the department may spend from the water pollution control revolving administration account an amount no greater than four percent of the water pollution control revolving fund new capital appropriation.

(7) For its 2017-2019 biennial operating budget submittal, and every biennium thereafter, the department must compare the projected water pollution control revolving administration account balance and the projected administration charge income with projected program costs, including an adequate working capital reserve as defined by the office of financial

management. In its submittal to the office of financial management, the department may:

(a) Find that the projected administration charge income is inadequate to fund the cost of administering the program, and that the rate of the charge must be increased. However, the administration charge may never exceed one percent on the declining principal loan balance;

(b) Find that the projected administration charge income exceeds what is needed to fund the cost of administering the program, and that the rate of the charge must be decreased;

(c) Find that there is an excess balance in the revolving administration account, and that the excess must be transferred to the water pollution control revolving fund to be used for loans; or

(d) Find that there is no need for any rate adjustments or balance transfers.

(8) At the point where the water pollution control revolving administration account adequately covers the program administration costs, the department may no longer use the federal administration allowance. If a federal capitalization grant is awarded after that point, all federal capitalization dollars must be used for making loans.

(9) By December 1, 2018, the department must submit to the appropriate legislative fiscal committees a report on implementation of the administration charge, including information on: The amount of income the administration charge has produced since its inception; the uses and adequacy of the income for administrative costs; any excess balances that have been transferred to the water pollution control revolving fund; and any additional sources that the department is using for program administration.

(10) (~~During the 2019-2021 and 2021-2023 fiscal biennia, the~~) The legislature may direct the state treasurer to make transfers of moneys in the water pollution control revolving administration account to the water pollution control revolving fund.

NEW SECTION. Sec. 23. The following acts or parts of acts are each repealed:

(1) RCW 43.60A.153 (Veterans conservation corps account) and 2007 c 451 s 6; and

(2) RCW 43.79.467 (Dedicated McCleary penalty account) and 2018 c 299 s 920.

NEW SECTION. Sec. 24. The special personnel litigation revolving account created in chapter 372, Laws of 2006 is eliminated.

NEW SECTION. Sec. 25. Section 2 of this act takes effect January 1, 2023.

Passed by the Senate February 11, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.



## CHAPTER 158

[Senate Bill 5624]

## LIVESTOCK IDENTIFICATION—FEES—EXPIRATION DATE

AN ACT Relating to extending the expiration date of certain sections of chapter 92, Laws of 2019, regarding livestock identification; amending RCW 16.57.460; amending 2019 c 92 s 14 (uncodified); and providing expiration dates.

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

**Sec. 1.** 2019 c 92 s 14 (uncodified) is amended to read as follows:  
Sections 1, 5, 8, and 11 of this act expire July 1, (~~2023~~) 2024.

**Sec. 2.** RCW 16.57.460 and 2019 c 92 s 13 are each amended to read as follows:

(1) The department shall submit a livestock inspection program report pursuant to RCW 43.01.036 by September 1, 2020, and annually thereafter, to the appropriate committees of the legislature having oversight over agriculture and fiscal matters. The report must also be submitted to the livestock identification advisory committee created in RCW 16.57.015. The report must include amounts collected, a report on program expenditures, and any recommendations for making the program more efficient, improving the program, or modifying livestock inspection fees to cover the costs of the program. The report must also address the financial status of the program, including whether there is a need to review fees so that the program continues to be supported by fees.

(2) This section expires July 1, (~~2023~~) 2024.

Passed by the Senate January 28, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 159

[Senate Bill 5634]

## UTILITIES AND TRANSPORTATION COMMISSION—REGULATORY FEES

AN ACT Relating to updating the utilities and transportation commission's regulatory fees; and amending RCW 80.24.010.

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

**Sec. 1.** RCW 80.24.010 and 2003 c 296 s 1 are each amended to read as follows:

Every public service company subject to regulation by the commission shall, on or before the date specified by the commission for filing annual reports under RCW 80.04.080, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year or portion thereof and pay to the commission a fee equal to one-tenth of one percent of the first fifty thousand dollars of gross operating revenue, plus (~~two-tenths~~) four-tenths of one percent of any gross operating revenue in excess of fifty thousand dollars: PROVIDED, That the commission may, by rule, set minimum fees that do not exceed the cost of collecting the fees. The commission

may by rule waive any or all of the minimum fee established pursuant to this section.

The percentage rates of gross operating revenue to be paid in any year may be decreased by the commission for any class of companies subject to the payment of such fees, by general order entered before March 1st of such year, and for such purpose such companies shall be classified as follows:

Electrical, gas, water, telecommunications, and irrigation companies shall constitute class one. Every other company subject to regulation by the commission, for which regulatory fees are not otherwise fixed by law shall pay fees as herein provided and shall constitute additional classes according to kinds of businesses engaged in.

Any payment of the fee imposed by this section made after its due date shall include a late fee of two percent of the amount due. Delinquent fees shall accrue interest at the rate of one percent per month.

Passed by the Senate January 26, 2022.

Passed by the House March 7, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 160

[Second Substitute Senate Bill 5695]

### DEPARTMENT OF CORRECTIONS—BODY SCANNER PILOT PROGRAM

AN ACT Relating to a body scanner pilot program at the department of corrections; adding a new section to chapter 72.09 RCW; creating new sections; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** This act may be known and cited as the drug free prisons act.

**NEW SECTION. Sec. 2.** The legislature recognizes that the department of corrections is responsible for enhancing public safety through the operation of safe and secure facilities. The legislature recognizes that safe and secure facilities improve safety and well-being for those experiencing incarceration, departmental employees, visitors, and volunteers. The legislature recognizes that one of the greatest risks to operating safe and secure facilities is the introduction and movement of contraband, including but not limited to alcohol and drugs. The legislature recognizes that undiagnosed, untreated, or unaddressed substance use disorder can lead to increased rates of recidivism. Therefore, the legislature intends to protect human dignity by reducing or eliminating strip searches, and to increase public safety by reducing access to drugs and alcohol in correctional facilities and to increase substance use disorder diagnosis, treatment, and services.

**NEW SECTION. Sec. 3.** A new section is added to chapter 72.09 RCW to read as follows:

(1)(a) The department shall establish a comprehensive body scanner program at the Washington corrections center for women and at a state correctional facility serving male incarcerated individuals as part of an expanded pilot program to create drug-free state correctional facilities. The scanner must be capable of detecting the presence of contraband contained under clothing and

within body cavities, and must meet applicable federal and state radiation and safety standards.

(b) The department shall develop policies and procedures necessary to establish a comprehensive body scanner program that shall be utilized to conduct security screenings for employees, contractors, visitors, volunteers, incarcerated individuals, and other persons entering the secure perimeter of the correctional facility participating in the pilot program under this section. Alternative search methods shall be used for persons who are minors, individuals who are health compromised, individuals with disabilities, individuals who may be pregnant, and individuals who may meet the maximum allowable monthly or annual radiation dosage limit specified by the department of health.

(2) The department shall provide appropriate custody and nursing staff levels for body scanners installed at a state correctional facility under this section. Staffing must be adequate to provide for subsequent searches and dry cell watches if a body scan indicates the presence of contraband.

(a) An incarcerated individual with a body scan indicating the presence of substance-related contraband shall undergo, if appropriate, a comprehensive assessment for substance use disorder and receive relevant substance use disorder treatment services, including medication-assisted treatment. The department shall prioritize substance use disorder treatment services for incarcerated individuals with cognitive, behavioral, and physiological symptoms indicating the incarcerated individual is experiencing a substance use disorder. The department shall distinguish between incarcerated individuals who have symptoms indicating a substance use disorder and incarcerated individuals who transport substances for other individuals and do not have symptoms indicating a substance use disorder.

(b) A department employee, contractor, visitor, or volunteer with a body scan indicating the presence of contraband shall be disciplined in accordance with department policies.

(3) The department shall provide appropriate radiation safety and body scanner operation training to all staff who will administer the body scan. Only staff who have completed all related trainings may be permitted to operate the body scanner and review body scans. The department shall develop policies, in consultation and collaboration with the department of health, on scanner use and screening procedures, including frequency and radiation exposure limits, to minimize harmful radiation exposure while safely and effectively utilizing the full body scanners to create drug-free correctional facilities. The department shall develop a method to track and maintain records on the frequency of body scans conducted on any individual subject to the comprehensive body scanner program to comply with any maximum allowable monthly and annual radiation dosage limits that may be set by the department of health.

(4) The secretary shall adopt any rules and policies necessary to implement the requirements of this section.

(5) By December 1st each year, and in compliance with RCW 43.01.036, the department shall submit a report to the governor and the legislature on:

(a) The number and types of individuals, including visitors, employees, contractors, and volunteers, with positive body scans in the prior year and the disciplinary action taken;

(b) The types of contraband detected by the body scanner;

- (c) The number of confiscated substances in the prior five years;
  - (d) The number of incarcerated individuals with positive body scans for substance-related contraband in the prior year who were assessed for substance use disorder and received substance use disorder treatment services while incarcerated; and
  - (e) The number and length of time incarcerated individuals with positive body scans were placed on dry cell watch in the prior year.
- (6) For the purposes of this section:
- (a) "Contraband" has the meaning as in RCW 9A.76.010;
  - (b) "Dry cell watch" means the placement of an incarcerated person in a secure room or cell for the safe recovery of internally concealed contraband; and
  - (c) "Substance use disorder treatment services" means services licensed by the department of health or provided as part of a substance use disorder treatment program that has been approved by the department of health.
- (7) This section expires June 30, 2024.

**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, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 7, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 161

[Engrossed Substitute Senate Bill 5714]

### SOLAR CANOPIES—SALES AND USE TAX DEFERRAL PROGRAM

AN ACT Relating to creating a sales and use tax deferral program for solar canopies placed on large-scale commercial parking lots and other similar areas; adding a new chapter to Title 82 RCW; and providing an effective date.

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

**NEW SECTION. Sec. 1.** (1) The legislature finds that while Washington state has significant solar resources and increasing electricity generation from solar installations, these are concentrated in rooftop installations and in utility-scale solar projects on rural lands that could otherwise be devoted to crop lands, grazing lands, or other productive uses. A recent study estimates that in the United States about 51 percent of utility-scale solar facilities are in deserts, 33 percent are on croplands, 10 percent are in grasslands and forests, and only 2.5 percent of solar power comes from urban areas.

(2) The legislature further finds that in urbanized areas the land devoted to transportation, both moving and parking vehicles, is substantial and becomes unavailable for additional uses. Surface parking lots that serve large commercial, industrial, and residential institutional developments present an opportunity for solar power on parking lot canopies to gain added benefits for the use of this land. Solar canopies would significantly contribute to the state's goals of reducing greenhouse gas emissions from the electricity sector and boost overall electricity supplies as the state increases the electrification of transportation and powering and heating buildings. Additionally, solar canopies provide weather

protection in summer and winter to both the vehicles under the canopies and people moving from their cars into the buildings served by the parking lot.

(3) The legislature further finds that the initial capital costs of installing solar generation on parking lot canopies will in most cases be fully amortized over time with the power generated and sold into the electricity system, but that initial capital costs may deter incorporation of installations into new projects. For these reasons, the legislature intends to provide for a deferral of state and local sales and use taxes for eligible costs of the construction of a solar canopy at qualifying commercial centers.

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

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Eligible area" means a qualifying commercial center.

(3) "Eligible investment project" means an investment project that is located, as of the date the application required by section 3 of this act is received by the department, in an eligible area.

(4)(a) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(i) Construction of the eligible investment project, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(ii) Construction of the eligible investment project, if the economic benefits of the deferral are passed to a lessee as provided in section 8 of this act; or

(iii) Tenant improvements for the eligible investment project, if the economic benefits of the deferral are passed to a lessee as provided in section 8 of this act.

(b) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(c) If the investment project is a phased project, "initiation of construction" applies separately to each phase.

(5) "Investment project" means an investment in a qualified solar canopy including labor and services rendered in the planning, installation, and construction of the project.

(6) "Meaningful construction" means an active construction site, where excavation of a building site, laying of a structure foundation, or other tangible signs of construction are taking place and that clearly show a progression in the construction process at the location designated by the taxpayer in the application for deferral. Planning, permitting, or land clearing before excavation of the building site, without more, do not constitute "meaningful construction."

(7) "Operationally complete" means the solar canopy has received its final electrical inspection and is connected to the electrical grid.

(8) "Person" has the meaning given in RCW 82.04.030.

(9) "Qualified solar canopy" means construction of a new solar canopy that has an area of at least 50,000 square feet.

(10) "Qualifying commercial center" means a property currently used for retail, industrial, office, or other commercial purposes, containing a parking area or other area dedicated for both vehicle use and placement of a solar canopy.

(11) "Recipient" means a person receiving a tax deferral under this chapter.

(12)(a) "Solar canopy" means an elevated structure, or multiple structures, containing a solar energy system, as defined in RCW 82.16.110, with a nameplate capacity of at least one megawatt of alternating current.

(b) "Solar canopy" includes the solar energy system, power lines, and any equipment required to connect the solar canopy to the electrical grid.

**NEW SECTION. Sec. 3.** (1) Application for deferral of taxes under this chapter must be made before initiation of the construction of the investment project. The application must be made to the department in a form and manner prescribed by the department. The application must contain information regarding the location of the investment project, estimated or actual costs, time schedules for completion and operation, anticipated nameplate capacity and use of the electricity produced by the solar canopy, and other information required by the department. The department must rule on the application within 60 days. The department must compile this information for use by the joint legislative audit and review committee in its evaluation of the tax preference under section 9 of this act.

(2) The department may not accept applications for the deferral under this chapter after June 30, 2032.

**NEW SECTION. Sec. 4.** The department must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project.

**NEW SECTION. Sec. 5.** (1) The recipient of a deferral certificate under section 4 of this act must begin meaningful construction on an eligible investment project within one year of receiving a deferral certificate, unless construction was delayed due to circumstances beyond the recipient's control. Lack of funding is not considered a circumstance beyond the recipient's control.

(2) If the recipient does not begin meaningful construction on an eligible investment project within one year of receiving a deferral certificate, the deferral certificate issued under section 4 of this act is invalid and taxes deferred under this chapter are due immediately.

(3) A recipient of a deferral certificate under section 4 of this act must notify the department and update the information originally provided in the application if the solar canopy, at the time of completion, will produce an amount of electricity that is less than 85 percent of the nameplate capacity originally assumed.

(4) Each recipient of a deferral of taxes under this chapter must file a complete annual tax performance report with the department under RCW 82.32.534 for the year the solar canopy is certified as operationally complete and for the subsequent seven years. If the solar canopy ceases to be connected to the electrical grid, the annual tax performance report is no longer required beginning on the date the solar canopy was disconnected from the electrical grid.

**NEW SECTION. Sec. 6.** (1) Except as otherwise provided in this chapter, the recipient of the deferral under this chapter must receive a reduction of the amount of state and local sales and use tax to be repaid under this act as follows:

(a) Fifty percent of the sales and use tax deferred, if the department of labor and industries certifies that the eligible investment project includes procurement from and contracts with women, minority, or veteran-owned businesses; procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations; apprenticeship utilization; and preferred entry for workers living in the area where the eligible investment project is being constructed. In the event that an eligible investment project is built without one or more of these standards, and a project developer or its designated principal contractor demonstrates that it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with one or more standards;

(b) Seventy-five percent of the sales and use tax deferred, if the department of labor and industries certifies that the eligible investment project complies with (a) of this subsection and compensates workers at prevailing wage rates as determined by the department of labor and industries; or

(c) One hundred percent of the sales and use tax deferred, if the department of labor and industries certifies that the eligible investment project is developed under a community workforce agreement or project labor agreement.

(2)(a) The department of labor and industries must adopt emergency and permanent rules to:

(i) Define and set minimum requirements for all labor standards identified in subsection (1) of this section as well as documentation requirements and a certification process. The certification process and timeline must be designed to prevent undue delay to project development; and

(ii) Set requirements for all good faith efforts under subsection (1)(a) and (b) of this section. Requirements for all good faith efforts must be designed to maximize the likelihood that the project is completed with the standards, and include: Proactive outreach to women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms and with the office of minority and women's business enterprises; participating in community job fairs, conferences, and trade shows; and other measures.

(b) The standards for procurement from and contracts with women or minority-owned businesses under subsection (1)(a) of this section must include a requirement that the recipient of the deferral consult with the office of minority and women's business enterprises to develop a plan to meet the standards or good faith efforts. The requirements for good faith efforts must include the office of minority and women's business enterprises review to determine compliance with the plan.

(c) The labor standard for procurement from and contracts with veteran-owned businesses under subsection (1)(a) of this section must include a requirement that the recipient of the deferral consult with the department of veterans affairs to develop a plan to meet the standards or good faith efforts. The requirements for good faith efforts must include the department of veterans affairs review to determine compliance with the plan.

(d) The department of labor and industries must consult with the office of minority and women's business enterprises, the department of veterans affairs,

and the Washington apprenticeship and training council in setting standards and good faith efforts.

**NEW SECTION. Sec. 7.** (1) Except as otherwise provided in this chapter, the recipient must begin paying the deferred taxes in the second year after the date certified by the department as the date on which the eligible investment project has been operationally completed. The first payment of 12.5 percent of the deferred taxes is due on December 31st of the second calendar year after the certified date, with subsequent annual payments of 12.5 percent of the deferred taxes due on December 31st for each of the following seven years.

(2) The department may authorize an accelerated repayment schedule upon request of the recipient.

(3) If the investment project is not operationally complete within two calendar years from the issuance of the tax deferral certificate, or if, on the basis of the tax performance report under RCW 82.32.534 or other information, the department finds that an investment project is not connected to the electrical grid and producing solar energy at any time during the calendar year in which the investment project is certified by the department as having been operationally completed, or at any time during any of the seven succeeding calendar years, a portion of deferred taxes is immediately due according to the following schedule:

Year in which use occurs	Percent of deferred taxes due
1	100
2	100
3	87.5
4	75
5	62.5
6	50
7	37.5
8	25
9	12.5

(4) The department must assess interest at the rate provided for delinquent taxes, but not penalties, retroactively to the date of deferral for a recipient who must repay deferred taxes under this chapter because the department has found that an investment project is not eligible for tax deferral. The debt for deferred taxes is not extinguished by insolvency or other failure of the recipient.

(5) Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

**NEW SECTION. Sec. 8.** A lessor or owner of an eligible investment project is not eligible for a deferral under this chapter unless:

(1) The underlying ownership of the qualified solar canopy vests exclusively in the same person; or



(2)(a) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(b) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual tax performance report required under RCW 82.63.020(2); and

(c) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the eligible investment project and the lessee.

**NEW SECTION. Sec. 9.** This section is the tax preference performance statement for the sales and use tax deferral program created in sections 4 and 7, chapter . . . , Laws of 2022 (sections 4 and 7 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preference created in this act as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to incentivize the construction of solar canopies in the state of Washington in order to reduce greenhouse gas emissions from the electricity sector and boost overall electricity supplies as the state increases the electrification of transportation and powering and heating buildings.

(3) Pursuant to chapter 43.136 RCW, the joint legislative audit and review committee must review the sales and use tax deferral created in this act by December 31, 2030. The review must specifically evaluate:

(a) The number of solar canopies constructed in the state subject to a sales and use tax deferral under this act;

(b) The average and total electric output of solar canopies subject to a sales and use tax deferral under this act;

(c) The total beneficiary savings from the tax preference created in this act;

(d) The estimated reduction in greenhouse gas emissions resulting from energy produced from solar canopies assuming an equivalent amount of energy would have otherwise been generated through the combustion of fossil fuels; and

(e) Any other metrics the committee finds relevant to the evaluation of the tax preference created in this act in meeting its public policy objective.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee shall use information collected, compiled, and provided by the department of revenue. The committee may also contact recipients of the sales and use tax deferral under this act to confirm details of solar canopies.

**NEW SECTION. Sec. 10.** Sections 1 through 9, 11, and 12 of this act constitute a new chapter in Title 82 RCW.

**NEW SECTION. Sec. 11.** The automatic expiration date for tax preferences in RCW 82.32.805 does not apply to this act.

**NEW SECTION. Sec. 12.** This act takes effect July 1, 2022.

Passed by the Senate March 4, 2022.

Passed by the House March 9, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 162

[Substitute Senate Bill 5728]

### CIVIL ASSET FORFEITURE COLLECTIONS—DEPOSIT INTO BEHAVIORAL HEALTH LOAN REPAYMENT PROGRAM ACCOUNT

AN ACT Relating to the state's portion of civil asset forfeiture collections; amending RCW 69.50.505, 46.61.5058, 10.105.010, 9.68A.120, and 9A.88.150; reenacting and amending RCW 43.79A.040; and providing an effective date.

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

**Sec. 1.** RCW 69.50.505 and 2013 c 3 s 25 are each amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them:

(a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

(c) All property which is used, or intended for use, as a container for property described in (a) or (b) of this subsection;

(d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in (a) or (b) of this subsection, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;

(iii) No conveyance is subject to forfeiture under this section if used in the receipt of only an amount of marijuana for which possession constitutes a misdemeanor under RCW 69.50.4014;

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(v) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW;

(f) All drug (~~paraphernalia~~) paraphernalia other than paraphernalia possessed, sold, or used solely to facilitate marijuana-related activities that are not violations of this chapter;

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent; and

(h) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(h), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property;

(iii) The possession of marijuana shall not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes that are unlawful under Washington state law, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of marijuana possessed by the offender, the sophistication of the activity or equipment used by the offender, whether the offender was licensed to produce, process, or sell marijuana, or was an employee of a licensed producer, processor, or retailer, and other evidence which demonstrates the offender's intent to engage in unlawful commercial activity;

(iv) The unlawful sale of marijuana or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of marijuana or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

(v) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any ((board)) commission inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A ((board)) commission inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The ((board)) commission inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt

requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(d), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section.

(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two

or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.

(7) When property is forfeited under this chapter the ~~((board))~~ commission or seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(d) Forward it to the drug enforcement administration for disposition.

(8)(a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(b) Each seizing agency shall retain records of forfeited property for at least seven years.

(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(9)(a) By January 31st of each year, each seizing agency shall remit to the state ~~((treasurer))~~ an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year for deposit into the behavioral health loan repayment program account created in RCW 28B.115.135 through June 30, 2027, and into the state general fund thereafter. ~~((Money remitted shall be deposited in the state general fund.))~~

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (15) of this section.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Forfeited property and net proceeds not required to be ~~((paid))~~ remitted to the state ~~((treasurer))~~ shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(11) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the ((board)) commission, the owners of which are unknown, are contraband and shall be summarily forfeited to the ((board)) commission.

(12) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the ((board)) commission.

(13) The failure, upon demand by a ((board)) commission inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he or she is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

(14) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(15)(a) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (7)(b) of this section, only if:

(i) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

(ii) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section;

(A) Only if the funds applied under (a)(ii) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

(B) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty-day period. Nothing in this section requires the claim to be paid by the end of the sixty-day or thirty-day period.

(b) For any claim filed under (a)(ii) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of this chapter or chapter 69.41 or 69.52 RCW; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(16) The landlord's claim for damages under subsection (15) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (7)(b) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (9)(b) of this section.

(17) Subsections (15) and (16) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (15) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

**Sec. 2.** RCW 46.61.5058 and 2013 2nd sp.s. c 35 s 18 are each amended to read as follows:

(1) Upon the arrest of a person or upon the filing of a complaint, citation, or information in a court of competent jurisdiction, based upon probable cause to believe that a person has violated RCW 46.20.740, 46.61.502, or 46.61.504 or any similar municipal ordinance, if such person has a prior offense within seven years as defined in RCW 46.61.5055, and where the person has been provided written notice that any transfer, sale, or encumbrance of such person's interest in the vehicle over which that person was actually driving or had physical control when the violation occurred, is unlawful pending either acquittal, dismissal, sixty days after conviction, or other termination of the charge, such person shall be prohibited from encumbering, selling, or transferring his or her interest in such vehicle, except as otherwise provided in (a), (b), and (c) of this subsection, until either acquittal, dismissal, sixty days after conviction, or other termination of the charge. The prohibition against transfer of title shall not be stayed pending the determination of an appeal from the conviction.

(a) A vehicle encumbered by a bona fide security interest may be transferred to the secured party or to a person designated by the secured party;

(b) A leased or rented vehicle may be transferred to the lessor, rental agency, or to a person designated by the lessor or rental agency; and

(c) A vehicle may be transferred to a third party or a vehicle dealer who is a bona fide purchaser or may be subject to a bona fide security interest in the vehicle unless it is established that (i) in the case of a purchase by a third party or vehicle dealer, such party or dealer had actual notice that the vehicle was subject to the prohibition prior to the purchase, or (ii) in the case of a security interest, the holder of the security interest had actual notice that the vehicle was subject to the prohibition prior to the encumbrance of title.

(2) On conviction for a violation of either RCW 46.20.740, 46.61.502, or 46.61.504 or any similar municipal ordinance where the person convicted has a prior offense within seven years as defined in RCW 46.61.5055, the motor



vehicle the person was driving or over which the person had actual physical control at the time of the offense, if the person has a financial interest in the vehicle, the court shall consider at sentencing whether the vehicle shall be seized and forfeited pursuant to this section if a seizure or forfeiture has not yet occurred.

(3) A vehicle subject to forfeiture under this chapter may be seized by a law enforcement officer of this state upon process issued by a court of competent jurisdiction. Seizure of a vehicle may be made without process if the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding based upon this section.

(4) Seizure under subsection (3) of this section automatically commences proceedings for forfeiture. The law enforcement agency under whose authority the seizure was made shall cause notice of the seizure and intended forfeiture of the seized vehicle to be served within fifteen days after the seizure on the owner of the vehicle seized, on the person in charge of the vehicle, and on any person having a known right or interest in the vehicle, including a community property interest. The notice of seizure may be served by any method authorized by law or court rule, including but not limited to service by certified mail with return receipt requested. Service by mail is complete upon mailing within the fifteen-day period after the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected on a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the vehicle is deemed forfeited.

(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized vehicle within forty-five days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020, the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the vehicle is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the vehicle involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the legal owner or the person

claiming to have the lawful right to possession of the vehicle. The seizing law enforcement agency shall promptly return the vehicle to the claimant upon a determination by the administrative law judge or court that the claimant is the present legal owner under this title or is lawfully entitled to possession of the vehicle.

(7) When a vehicle is forfeited under this chapter the seizing law enforcement agency may sell the vehicle, retain it for official use, or upon application by a law enforcement agency of this state release the vehicle to that agency for the exclusive use of enforcing this title; provided, however, that the agency shall first satisfy any bona fide security interest to which the vehicle is subject under subsection (1)(a) or (c) of this section.

(8) When a vehicle is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the vehicle, the disposition of the vehicle, the value of the vehicle at the time of seizure, and the amount of proceeds realized from disposition of the vehicle.

(9) Each seizing agency shall retain records of forfeited vehicles for at least seven years.

(10) Each seizing agency shall file a report including a copy of the records of forfeited vehicles with the state treasurer each calendar quarter.

(11) The quarterly report need not include a record of a forfeited vehicle that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(12) By January 31st of each year, each seizing agency shall remit to the state (~~treasurer~~) an amount equal to ten percent of the net proceeds of vehicles forfeited during the preceding calendar year (~~(. Money remitted shall be deposited in the state general fund)~~) for deposit into the behavioral health loan repayment program account created in RCW 28B.115.135 through June 30, 2027, and into the state general fund thereafter.

(13) The net proceeds of a forfeited vehicle is the value of the forfeitable interest in the vehicle after deducting the cost of satisfying a bona fide security interest to which the vehicle is subject at the time of seizure; and in the case of a sold vehicle, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.

(14) The value of a sold forfeited vehicle is the sale price. The value of a retained forfeited vehicle is the fair market value of the vehicle at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing. A seizing agency may, but need not, use an independent qualified appraiser to determine the value of retained vehicles. If an appraiser is used, the value of the vehicle appraised is net of the cost of the appraisal.

**Sec. 3.** RCW 10.105.010 and 2009 c 479 s 15 are each amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them: All personal property, including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which has been or was actually employed as an instrumentality in the commission of, or in aiding or abetting in the commission of any felony, or which was furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation

for the commission of, any felony, or which was acquired in whole or in part with proceeds traceable to the commission of a felony. No property may be forfeited under this section until after there has been a superior court conviction of the owner of the property for the felony in connection with which the property was employed, furnished, or acquired.

A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if at the time the security interest was created, the secured party neither had knowledge of nor consented to the commission of the felony.

(2) Personal property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding;

(c) A law enforcement officer has probable cause to believe that the property is directly dangerous to health or safety; or

(d) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in the commission of a felony.

(3) In the event of seizure pursuant to this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. The notice of seizure may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty-five days of the seizure, the item seized shall be deemed forfeited.

(5) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized property within forty-five days of the seizure, the law enforcement agency shall give the person or persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction.

Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the property involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property. The seizing law enforcement agency shall promptly return the property to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.

(6) When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the criminal law;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public.

(7) By January 31st of each year, each seizing agency shall remit to the state (~~treasurer~~) an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year (~~(- Money remitted shall be deposited in the state general fund)~~) for deposit into the behavioral health loan repayment program account created in RCW 28B.115.135 through June 30, 2027, and into the state general fund thereafter.

(a) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents.

(b) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(c) Retained property and net proceeds not required to be (~~paid~~) remitted to the state (~~treasurer~~), or otherwise required to be spent under this section, shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

**Sec. 4.** RCW 9.68A.120 and 2014 c 188 s 3 are each amended to read as follows:

The following are subject to seizure and forfeiture:

(1) All visual or printed matter that depicts a minor engaged in sexually explicit conduct.

(2) All raw materials, equipment, and other tangible personal property of any kind used or intended to be used to manufacture or process any visual or printed matter that depicts a minor engaged in sexually explicit conduct, and all conveyances, including aircraft, vehicles, or vessels that are used or intended for use to transport, or in any manner to facilitate the transportation of, visual or printed matter in violation of RCW 9.68A.050 or 9.68A.060, but:

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(b) No property is subject to forfeiture under this section by reason of any act or omission established by the owner of the property to have been committed or omitted without the owner's knowledge or consent;

(c) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(d) When the owner of a conveyance has been arrested under this chapter the conveyance may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest.

(3) All personal property, moneys, negotiable instruments, securities, or other tangible or intangible property furnished or intended to be furnished by any person in exchange for visual or printed matter depicting a minor engaged in sexually explicit conduct, or constituting proceeds traceable to any violation of this chapter.

(4) Property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(5) In the event of seizure under subsection (4) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt

requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(6) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of seized items within forty-five days of the seizure, the item seized shall be deemed forfeited.

(7) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of seized items within forty-five days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than five hundred dollars. The hearing before an administrative law judge and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the seized items. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is lawfully entitled to possession thereof of the seized items.

(8) If property is sought to be forfeited on the ground that it constitutes proceeds traceable to a violation of this chapter, the seizing law enforcement agency must prove by a preponderance of the evidence that the property constitutes proceeds traceable to a violation of this chapter.

(9) When property is forfeited under this chapter the seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release the property to that agency for the exclusive use of enforcing this chapter or chapter 9A.88 RCW;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public; or

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law.

(10)(a) By January 31st of each year, each seizing agency shall remit to the state (~~(treasurer)~~) an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the prostitution prevention and intervention account under RCW 43.63A.740.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to an independent selling agency.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure determined when possible by reference to an applicable commonly used index. A seizing agency may use, but need not use, an independent qualified

appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(11) Forfeited property and net proceeds not required to be ~~((paid))~~ remitted to the state ~~((treasurer))~~ under this chapter shall be used for payment of all proper expenses of the investigation leading to the seizure, including any money delivered to the subject of the investigation by the law enforcement agency, and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, actual costs of the prosecuting or city attorney, and court costs. Money remaining after payment of these expenses shall be retained by the seizing law enforcement agency for the exclusive use of enforcing the provisions of this chapter or chapter 9A.88 RCW.

**Sec. 5.** RCW 9A.88.150 and 2014 c 188 s 4 are each amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them:

(a) Any property or other interest acquired or maintained in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070 to the extent of the investment of funds, and any appreciation or income attributable to the investment, from a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

(b) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;

(iii) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(iv) When the owner of a conveyance has been arrested for a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(c) Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

(d) All proceeds traceable to or derived from an offense defined in RCW 9.68A.100, 9.68A.101, or 9A.88.070 and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used significantly to facilitate commission of the offense;

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

(f) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(f), to the extent of the interest of an owner, by reason of any act or omission, which that owner establishes was committed or omitted without the owner's knowledge or consent; and

(g) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, if a substantial nexus exists between the violation and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(2) Real or personal property subject to forfeiture under this section may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding; or

(c) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the



property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including, but not limited to, service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the

district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1) of this section.

(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.

(7) When property is forfeited under this chapter, the seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release the property to that agency for the exclusive use of enforcing this chapter or chapter 9.68A RCW;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public; or

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law.

(8)(a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(b) Each seizing agency shall retain records of forfeited property for at least seven years.

(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(9)(a) By January 31st of each year, each seizing agency shall remit to the state (~~treasurer~~) an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the prostitution prevention and intervention account under RCW 43.63A.740.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (12) of this section.

(c) The value of sold forfeited property is the sale price. The value of destroyed property and retained firearms or illegal property is zero.

(10) Net proceeds not required to be (~~paid~~) remitted to the state (~~treasurer~~) shall be used for payment of all proper expenses of the investigation

leading to the seizure, including any money delivered to the subject of the investigation by the law enforcement agency, and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, actual costs of the prosecuting or city attorney, and court costs. Money remaining after payment of these expenses shall be retained by the seizing law enforcement agency for the exclusive use of enforcing the provisions of this chapter or chapter 9.68A RCW.

(11) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(12) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (9) of this section, only if:

(a) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence;

(b) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section:

(i) Only if the funds applied under (b) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

(ii) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty day period. Nothing in this section requires the claim to be paid by the end of the sixty day or thirty day period; and

(c) For any claim filed under (b) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(13) The landlord's claim for damages under subsection (12) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (9) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (12) of this section.

(14) Subsections (12) and (13) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (12) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

**Sec. 6.** RCW 43.79A.040 and 2021 c 175 s 10 and 2021 c 108 s 5 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 (~~(the account))~~ account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment program account, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the

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 revolving loan program 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 eighty 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.

NEW SECTION. **Sec. 7.** This act takes effect July 1, 2022.

Passed by the Senate March 8, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 163

[Substitute Senate Bill 5729]

### PUBLIC ASSISTANCE BENEFITS—ADMINISTRATIVE HEARING DEADLINES—GOOD CAUSE EXCEPTION

AN ACT Relating to creating a good cause exception to administrative hearing deadlines for applicants or recipients of certain public assistance benefits; amending RCW 74.08.080 and 74.09.741; creating a new section; and providing an effective date.

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

**Sec. 1.** RCW 74.08.080 and 1998 c 79 s 15 are each amended to read as follows:

(1)(a) A public assistance applicant or recipient who is aggrieved by a decision of the department or an authorized agency of the department has the right to an adjudicative proceeding. A current or former recipient who is aggrieved by a department claim that he or she owes a debt for an overpayment of assistance or food stamps or food stamp benefits transferred electronically, or both, has the right to an adjudicative proceeding.

(b) An applicant or recipient has no right to an adjudicative proceeding when the sole basis for the department's decision is a state or federal law that requires an assistance adjustment for a class of recipients.

(2) The adjudicative proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW, and this subsection.

(a) The applicant or recipient must file the application for an adjudicative proceeding with the secretary within (~~ninety~~) 90 days after receiving notice of the aggrieving decision unless good cause is shown, to the extent allowable under federal law.

(i) For the purpose of this subsection, good cause is defined as a substantive reason or legal justification for failing to meet a hearing deadline. Good cause to fail to meet a hearing deadline may include, but is not limited to: Military deployment, medical reasons, housing instability, language barriers, or domestic violence.

(ii) The department shall not grant a request for a hearing for good cause if the request is filed more than one year after the aggrieving decision.

(b) The hearing shall be conducted at the local community services office or other location in Washington convenient to the appellant.

(c) The appellant or his or her representative has the right to inspect his or her department file and, upon request, to receive copies of department documents relevant to the proceedings free of charge.

(d) The appellant has the right to a copy of the tape recording of the hearing free of charge.

(e) The department is limited to recovering an overpayment arising from assistance being continued pending the adjudicative proceeding to the amount recoverable up to the (~~sixtieth~~) 60th day after the secretary's receipt of the application for an adjudicative proceeding.

(f) If the final adjudicative order is made in favor of the appellant, assistance shall be paid from the date of denial of the application for assistance or ~~((thirty))~~ 30 days following the date of application for temporary assistance for needy families or ~~((forty-five))~~ 45 days after date of application for all other programs, whichever is sooner; or in the case of a recipient, from the effective date of the local community services office decision.

(g) This subsection applies only to an adjudicative proceeding in which the appellant is an applicant for or recipient of medical assistance or the limited casualty program for the medically needy and the issue is his or her eligibility or ineligibility due to the assignment or transfer of a resource. The burden is on the department to prove by a preponderance of the evidence that the person knowingly and willingly assigned or transferred the resource at less than market value for the purpose of qualifying or continuing to qualify for medical assistance or the limited casualty program for the medically needy. If the prevailing party in the adjudicative proceeding is the applicant or recipient, he or she is entitled to reasonable attorney's fees.

(3) When a person files a petition for judicial review as provided in RCW 34.05.514 of an adjudicative order entered in a public assistance program, no filing fee shall be collected from the person and no bond shall be required on any appeal. In the event that the superior court, the court of appeals, or the supreme court renders a decision in favor of the appellant, said appellant shall be entitled to reasonable attorneys' fees and costs. If a decision of the court is made in favor of the appellant, assistance shall be paid from date of the denial of the application for assistance or ~~((thirty))~~ 30 days after the application for temporary assistance for needy families or ~~((forty-five))~~ 45 days following the date of application, whichever is sooner; or in the case of a recipient, from the effective date of the local community services office decision.

**Sec. 2.** RCW 74.09.741 and 2011 1st sp.s. c 15 s 53 are each amended to read as follows:

(1) The following persons have the right to an adjudicative proceeding:

(a) Any applicant or recipient who is aggrieved by a decision of the authority or an authorized agency of the authority; or

(b) A current or former recipient who is aggrieved by the authority's claim that he or she owes a debt for overpayment of assistance.

(2) For purposes of this section:

(a) "Applicant" means any person who has made a request, or on behalf of whom a request has been made to the authority for any medical services program established under this chapter ~~((74.09 RCW))~~.

(b) "Recipient" means a person who is receiving benefits from the authority for any medical services program established in this chapter.

(3) An applicant or recipient has no right to an adjudicative proceeding when the sole basis for the authority's decision is a federal or state law requiring an assistance adjustment for a class of applicants or recipients.

(4) An applicant or recipient may file an application for an adjudicative proceeding with either the authority or the department and must do so within ~~((ninety))~~ 90 calendar days after receiving notice of the aggrieving decision unless good cause is shown, to the extent allowable under federal law. The authority shall determine which agency is responsible for representing the state

of Washington in the hearing, in accordance with agreements entered pursuant to RCW 41.05.021.

(a) For the purpose of this subsection, good cause is defined as a substantive reason or legal justification for failing to meet a hearing deadline. Good cause to fail to meet a hearing deadline may include, but is not limited to: Military deployment, medical reasons, housing instability, language barriers, or domestic violence.

(b) The authority or the department shall not grant a request for a hearing for good cause if the request is filed more than one year after the aggrieving decision.

(5)(a) The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW, and this subsection. The following requirements shall apply to adjudicative proceedings in which an appellant seeks review of decisions made by more than one agency. When an appellant files a single application for an adjudicative proceeding seeking review of decisions by more than one agency, this review shall be conducted initially in one adjudicative proceeding. The presiding officer may sever the proceeding into multiple proceedings on the motion of any of the parties, when:

(i) All parties consent to the severance; or

(ii) Either party requests severance without another party's consent, and the presiding officer finds there is good cause for severing the matter and that the proposed severance is not likely to prejudice the rights of an appellant who is a party to any of the severed proceedings.

(b) If there are multiple adjudicative proceedings involving common issues or parties where there is one appellant and both the authority and the department are parties, upon motion of any party or upon his or her own motion, the presiding officer may consolidate the proceedings if he or she finds that the consolidation is not likely to prejudice the rights of the appellant who is a party to any of the consolidated proceedings.

(c) The adjudicative proceeding shall be conducted at the local community services office or other location in Washington convenient to the applicant or recipient and, upon agreement by the applicant or recipient, may be conducted telephonically.

(d) The applicant or recipient, or his or her representative, has the right to inspect his or her file from the authority and, upon request, to receive copies of authority documents relevant to the proceedings free of charge.

(e) The applicant or recipient has the right to a copy of the audio recording of the adjudicative proceeding free of charge.

(f) If a final adjudicative order is issued in favor of an applicant, medical services benefits must be provided from the date of earliest eligibility, the date of denial of the application for assistance, or ~~((forty-five))~~ 45 days following the date of application, whichever is soonest. If a final adjudicative order is issued in favor of a recipient, medical services benefits must be provided from the effective date of the authority's decision.

(g) The authority is limited to recovering an overpayment arising from assistance being continued pending the adjudicative proceeding to the amount recoverable up to the ~~((sixtieth))~~ 60th day after the director's receipt of the application for an adjudicative proceeding.



(6) If the director requires that a party seek administrative review of an initial order to an adjudicative proceeding governed by this section, in order for the party to exhaust administrative remedies pursuant to RCW 34.05.534, the director shall adopt and implement rules in accordance with this subsection.

(a) The director, in consultation with the secretary, shall adopt rules to create a process for parties to seek administrative review of initial orders issued pursuant to RCW 34.05.461 in adjudicative proceedings governed by this subsection when multiple agencies are parties.

(b) This process shall seek to minimize any procedural complexities imposed on appellants that result from multiple agencies being parties to the matter, without prejudicing the rights of parties who are public assistance applicants or recipients.

(c) Nothing in this subsection shall impose or modify any legal requirement that a party seek administrative review of initial orders in order to exhaust administrative remedies pursuant to RCW 34.05.534.

(7) This subsection only applies to an adjudicative proceeding in which the appellant is an applicant for or recipient of medical services programs established under this chapter and the issue is his or her eligibility or ineligibility due to the assignment or transfer of a resource. The burden is on the authority or its authorized agency to prove by a preponderance of the evidence that the person knowingly and willingly assigned or transferred the resource at less than market value for the purpose of qualifying or continuing to qualify for medical services programs established under this chapter. If the prevailing party in the adjudicative proceeding is the applicant or recipient, he or she is entitled to reasonable attorneys' fees.

(8) When an applicant or recipient files a petition for judicial review as provided in RCW 34.05.514 of an adjudicative order entered with respect to the medical services program, no filing fee may be collected from the person and no bond may be required on any appeal. In the event that the superior court, the court of appeals, or the supreme court renders a decision in favor of the applicant or recipient, the person is entitled to reasonable attorneys' fees and costs. If a decision of the court is made in favor of an applicant, assistance shall be paid from the date of earliest eligibility, the date of the denial of the application for assistance, or ~~((forty-five))~~ 45 days following the date of application, whichever is soonest. If a decision of the court is made in favor of a recipient, assistance shall be paid from the effective date of the authority's decision.

(9) The provisions of RCW 74.08.080 do not apply to adjudicative proceedings requested or conducted with respect to the medical services program pursuant to this section.

(10) The authority shall adopt any rules it deems necessary to implement this section.

**NEW SECTION. Sec. 3.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 4. This act takes effect July 1, 2023.

Passed by the Senate March 7, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 164

[Substitute Senate Bill 5745]

### HOME AND COMMUNITY-BASED WAIVER SERVICES—PERSONAL NEEDS ALLOWANCE

AN ACT Relating to increasing the personal needs allowance for persons receiving state financed care; and amending RCW 74.09.340.

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

**Sec. 1.** RCW 74.09.340 and 2018 c 137 s 1 are each amended to read as follows:

(1) Except as provided in RCW 72.36.160, beginning January 1, 2019, the personal needs allowance for clients being served in medical institutions and in residential settings is ~~((seventy dollars))~~ \$70.

(2) Beginning January 1, 2020, and each year thereafter, subject to the availability of amounts appropriated for this specific purpose, the personal needs allowance for clients being served in medical institutions and in residential settings shall ((be)):

(a) Be adjusted for economic trends and conditions by increasing the allowance by the percentage cost-of-living adjustment for old-age, survivors, and disability social security benefits as published by the federal social security administration((- However, in no case shall the personal needs allowance)); and

(b) Not exceed the maximum personal needs allowance permissible under the federal social security act.

(3) Unless subject to a separate determination of a monthly maintenance needs allowance for a community spouse by authority rule, beginning July 1, 2022, the personal needs allowance for a client receiving home and community-based waiver services authorized by home and community services while living at home shall:

(a) Be adjusted to an amount that is no less than 300 percent of the federal benefit rate; and

(b) Not exceed the maximum personal needs allowance permissible under the federal social security act.

Passed by the Senate February 14, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 165

[Engrossed Substitute Senate Bill 5758]

## CONDOMINIUM CONVERSIONS—VARIOUS PROVISIONS

AN ACT Relating to condominium conversions; amending RCW 64.34.440, 64.90.655, and 43.185B.020; adding a new section to chapter 43.180 RCW; adding a new section to chapter 64.34 RCW; adding a new section to chapter 64.90 RCW; and creating new sections.

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

**NEW SECTION. Sec. 1.** The legislature finds that condominiums can provide an opportunity for affordable first-time homeownership, and that an increased supply of multifamily construction in Washington state and condominium demand creates market conditions for condominium conversions. The legislature also finds that the federal housing administration's condominium rule adopted in 2019 will improve financing options for first-time homebuyers in the condominium market. The legislature also recognizes that condominium conversions can create economic hardships on tenants in multifamily buildings. In addition to the change in tenancy, there are concerns about how the change of ownership will give power to condominium associations. There are different rules and different risks to be addressed. However, the legislature intends to ease these concerns and ensure that the power differential is addressed so that condominium ownership can build certainty for tenants as well as build wealth. It is the intent of the legislature to ensure that tenants of multifamily buildings planned to be converted to condominiums are provided with information and resources relating to homeownership opportunities, and to direct the affordable housing advisory board to review the subject of condominium conversions and provide a report to the legislature on issues relating to both homeownership opportunities and impacts to tenants.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.180 RCW to read as follows:

The commission shall implement a condominium conversion tenant-to-homeowner program focused on opportunities for first-time homeownership. The program must assist tenants in multifamily residential buildings that are planned to be converted to condominium ownership by providing information and resources relating to homeownership. The commission must refer such tenants to its home loan and down payment assistance programs as well as any applicable homebuyer education seminars available through local partnerships. The commission may establish income eligibility requirements for tenants and qualifying purchase price thresholds under the program that are consistent with the requirements and thresholds under existing commission programs.

**NEW SECTION. Sec. 3.** A new section is added to chapter 64.34 RCW to read as follows:

A declarant of a conversion condominium, and any dealer who intends to offer units in such a condominium, must provide a conversion condominium notice of the conversion to the Washington state housing finance commission no later than 120 days before the residential tenants and any residential subtenant in possession of a portion of a conversion condominium are required to vacate.

**NEW SECTION. Sec. 4.** A new section is added to chapter 64.90 RCW to read as follows:

A declarant or dealer who intends to offer units in a conversion building must provide a conversion building notice of the conversion to the Washington state housing finance commission no later than 120 days before the residential tenants and any residential subtenant in possession of a portion of a conversion building are required to vacate.

**Sec. 5.** RCW 64.34.440 and 2008 c 113 s 1 are each amended to read as follows:

(1)(a) A declarant of a conversion condominium, and any dealer who intends to offer units in such a condominium, shall give each of the residential tenants and any residential subtenant in possession of a portion of a conversion condominium notice of the conversion and provide those persons with the public offering statement no later than (~~one hundred twenty~~) 120 days before the tenants and any subtenant in possession are required to vacate. The notice must:

(i) Set forth generally the rights of tenants and subtenants under this section;

(ii) Be delivered pursuant to notice requirements set forth in RCW 59.12.040; (~~and~~)

(iii) Inform the residential tenants and subtenants about the resources and information available under the condominium conversion tenant-to-homeowner program created in section 2 of this act; and

(iv) Expressly state whether there is a county or city relocation assistance program for tenants or subtenants of conversion condominiums in the jurisdiction in which the property is located. If the county or city does have a relocation assistance program, the following must also be included in the notice:

(A) A summary of the terms and conditions under which relocation assistance is paid; and

(B) Contact information for the city or county relocation assistance program, which must include, at a minimum, a telephone number of the city or county department that administers the relocation assistance program for conversion condominiums.

(b) No tenant or subtenant may be required to vacate upon less than (~~one hundred twenty~~) 120 days' notice, except by reason of nonpayment of rent, waste, conduct that disturbs other tenants' peaceful enjoyment of the premises, or act of unlawful detainer as defined in RCW 59.12.030, and the terms of the tenancy may not be altered during that period except as provided in (c) of this subsection.

(c) At the declarant's option, the declarant may provide all tenants in a single building with an option to terminate their lease or rental agreements without cause or consequence after providing the declarant with (~~thirty~~) 30 days' notice. In such case, tenants continue to have access to relocation assistance under subsection (6)(e) of this section.

(d) Nothing in this subsection shall be deemed to waive or repeal RCW 59.18.200(2). Failure to give notice as required by this section is a defense to an action for possession.

(e) The city or county in which the property is located may require the declarant to forward a copy of the conversion notice required in (a) of this subsection to the appropriately designated department or agency in the city or county for the purpose of maintaining a list of conversion condominium projects proposed in the jurisdiction.

(2) For ~~((sixty))~~ 60 days after delivery or mailing of the notice described in subsection (1) of this section, the person required to give the notice shall offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that ~~((sixty-day))~~ 60-day period, the offeror may offer to dispose of an interest in that unit during the following ~~((one hundred eighty))~~ 180 days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant only if: (a) Such offeror, by written notice mailed to the tenant's last known address, offers to sell an interest in that unit at the more favorable price and terms, and (b) such tenant fails to accept such offer in writing within ten days following the mailing of the offer to the tenant. This subsection does not apply to any unit in a conversion condominium if that unit will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

(3) If a seller, in violation of subsection (2) of this section, conveys a unit to a purchaser for value who has no knowledge of the violation, recording of the deed conveying the unit extinguishes any right a tenant may have to purchase that unit but does not affect the right of a tenant to recover damages from the seller for a violation of subsection (2) of this section.

(4) If a notice of conversion specifies a date by which a unit or proposed unit must be vacated and otherwise complies with the provisions of this chapter and chapter 59.18 RCW, the notice also constitutes a notice to vacate specified by that statute.

(5) Nothing in this section permits termination of a lease by a declarant in violation of its terms.

(6) Notwithstanding RCW 64.34.050(1), a city or county may by appropriate ordinance require with respect to any conversion condominium within the jurisdiction of such city or county that:

(a) In addition to the statement required by RCW 64.34.415(1)(a), the public offering statement shall contain a copy of the written inspection report prepared by the appropriate department of such city or county, which report shall list any violations of the housing code or other governmental regulation, which code or regulation is applicable regardless of whether the real property is owned as a condominium or in some other form of ownership; said inspection shall be made within ~~((forty-five))~~ 45 days of the declarant's written request therefor and said report shall be issued within ~~((fourteen))~~ 14 days of said inspection being made. Such inspection may not be required with respect to any building for which a final certificate of occupancy has been issued by the city or county within the preceding ~~((twenty-four))~~ 24 months; and any fee imposed for the making of such inspection may not exceed the fee that would be imposed for the making of such an inspection for a purpose other than complying with this subsection (6)(a);

(b) Prior to the conveyance of any residential unit within a conversion condominium, other than a conveyance to a declarant or affiliate of a declarant: (i) All violations disclosed in the inspection report provided for in (a) of this subsection, and not otherwise waived by such city or county, shall be repaired, and (ii) a certification shall be obtained from such city or county that such repairs have been made, which certification shall be based on a reinspection to

be made within seven days of the declarant's written request therefor and which certification shall be issued within seven days of said reinspection being made;

(c) The repairs required to be made under (b) of this subsection shall be warranted by the declarant against defects due to workmanship or materials for a period of one year following the completion of such repairs;

(d) Prior to the conveyance of any residential unit within a conversion condominium, other than a conveyance to a declarant or affiliate of a declarant:

(i) The declarant shall establish and maintain, during the one-year warranty period provided under (c) of this subsection, an account containing a sum equal to ~~((ten))~~ 10 percent of the actual cost of making the repairs required under (b) of this subsection; (ii) during the one-year warranty period, the funds in such account shall be used exclusively for paying the actual cost of making repairs required, or for otherwise satisfying claims made, under such warranty; (iii) following the expiration of the one-year warranty period, any funds remaining in such account shall be immediately disbursed to the declarant; and (iv) the declarant shall notify in writing the association and such city or county as to the location of such account and any disbursements therefrom;

(e)(i) A declarant shall pay relocation assistance, in an amount to be determined by the city or county, which may not exceed a sum equal to three months of the tenant's or subtenant's rent at the time the conversion notice required under subsection (1) of this section is received, to tenants and subtenants:

(A) Who do not elect to purchase a unit;

(B) Who are in lawful occupancy for residential purposes of a unit; and

(C) Whose annual household income from all sources, on the date of the notice described in subsection (1) of this section, was less than an amount equal to ~~((eighty))~~ 80 percent of:

(I) The annual median income for comparably sized households in the standard metropolitan statistical area, as defined and established by the United States department of housing and urban development, in which the condominium is located; or

(II) If the condominium is not within a standard metropolitan statistical area, the annual median income for comparably sized households in the state of Washington, as defined and determined by said department.

The household size of a unit shall be based on the number of persons actually in lawful occupancy of the unit. The tenant or subtenant actually in lawful occupancy of the unit shall be entitled to the relocation assistance. Relocation assistance shall be paid on or before the date the tenant or subtenant vacates and shall be in addition to any damage deposit or other compensation or refund to which the tenant is otherwise entitled. Unpaid rent or other amounts owed by the tenant or subtenant to the landlord may be offset against the relocation assistance;

(ii) Elderly or special needs tenants who otherwise meet the requirements of (e)(i)(A) of this subsection shall receive relocation assistance, the greater of:

(A) The sum described in (e)(i) of this subsection; or

(B) The sum of actual relocation expenses of the tenant, up to a maximum of ~~((one thousand five hundred dollars))~~ \$1,500 in excess of the sum described in (e)(i) of this subsection, which may include costs associated with the physical move, first month's rent, and the security deposit for the dwelling unit to which

the tenant is relocating, rent differentials for up to a six-month period, and any other reasonable costs or fees associated with the relocation. Receipts for relocation expenses must be provided to the declarant by eligible tenants, and declarants shall provide the relocation assistance to tenants in a timely manner. The city or county may provide additional guidelines for the relocation assistance;

(iii) For the purposes of this subsection (6)(e):

(A) "Special needs" means, but is not limited to, a chronic mental illness or physical disability, a developmental disability, or other condition affecting cognition, disease, chemical dependency, or a medical condition that is permanent, not reversible or curable, or is long lasting, and severely limits a person's mental or physical capacity for self-care; and

(B) "Elderly" means a person who is at least ~~((sixty five))~~ 65 years of age;

(f) Except as authorized under (g) of this subsection, a declarant and any dealer shall not begin any construction, remodeling, or repairs to any interior portion of an occupied building that is to be converted to a condominium during the ~~((one hundred twenty day))~~ 120-day notice period provided for in subsection (1) of this section unless all residential tenants and residential subtenants who have elected not to purchase a unit and who are in lawful occupancy in the building have vacated the premises. For the purposes of this subsection:

(i) "Construction, remodeling, or repairs" means the work that is done for the purpose of converting the condominium, not work that is done to maintain the building or lot for the residential use of the existing tenants or subtenants;

(ii) "Occupied building" means a stand-alone structure occupied by tenants and does not include other stand-alone buildings located on the property or detached common area facilities; and

(g)(i) If a declarant or dealer has offered existing tenants an option to terminate an existing lease or rental agreement without cause or consequence as authorized under subsection (1)(c) of this section, a declarant and any dealer may begin construction, remodeling, or repairs to interior portions of an occupied building (A) to repair or remodel vacant units to be used as model units, if the repair or remodel is limited to one model for each unit type in the building, (B) to repair or remodel a vacant unit or common area for use as a sales office, or (C) to do both.

(ii) The work performed under this subsection (6)(g) must not violate the tenant's or subtenant's rights of quiet enjoyment during the ~~((one hundred twenty day))~~ 120-day notice period.

(7) Violations of any city or county ordinance adopted as authorized by subsection (6) of this section shall give rise to such remedies, penalties, and causes of action which may be lawfully imposed by such city or county. Such violations shall not invalidate the creation of the condominium or the conveyance of any interest therein.

**Sec. 6.** RCW 64.90.655 and 2018 c 277 s 412 are each amended to read as follows:

(1)(a) A declarant or dealer who intends to offer units in a conversion building must give each of the residential tenants and any residential subtenants in possession of a portion of a conversion building notice of the conversion and provide those persons with the public offering statement no later than ~~((one~~

~~hundred twenty~~) 120 days before the tenants and any subtenants in possession are required to vacate. The notice must:

(i) Set forth generally the rights of residential tenants and residential subtenants under this section;

(ii) Be delivered pursuant to notice requirements set forth in RCW 59.12.040;

(iii) Inform the residential tenants and subtenants about the resources and information available under the condominium conversion tenant-to-homeowner program created in section 2 of this act; and

(iv) Expressly state whether there is a county or city relocation assistance program for residential tenants or residential subtenants of conversion buildings in the jurisdiction in which the property is located. If the county or city does have a relocation assistance program, the following must also be included in the notice:

(A) A summary of the terms and conditions under which relocation assistance is paid; and

(B) Contact information for the city or county relocation assistance program, which must include, at a minimum, a telephone number of the city or county department that administers the relocation assistance program for conversion buildings.

(b) A residential tenant or residential subtenant may not be required to vacate upon less than (~~one hundred twenty~~) 120 days' notice, except by reason of nonpayment of rent, waste, or conduct that disturbs other residential tenants' or residential subtenants' peaceful enjoyment of the premises, or act of unlawful detainer as defined in RCW 59.12.030, and the terms of the tenancy may not be altered during that period except as provided in (c) of this subsection.

(c) At the declarant's option, the declarant may provide all residential tenants and residential subtenants in a single conversion building with an option to terminate their lease or rental agreements without cause or consequence after providing the declarant with thirty days' notice. In such case, residential tenants and residential subtenants continue to have access to relocation assistance under subsection (6)(e)(i) of this section.

(d)(i) Nothing in this subsection (1) waives or repeals RCW 59.18.200(2)(b).

(ii) Failure to give notice as required under this section is a defense to an action for possession.

(e) The city or county in which the property is located may require the declarant to forward a copy of the conversion notice required in this subsection (1) to the appropriately designated department or agency in the city or county for the purpose of maintaining a list of common interest communities containing conversion buildings in the jurisdiction.

(2)(a) For (~~sixty~~) 60 days after delivery or mailing of the notice described in subsection (1) of this section, the person required to give the notice must offer to convey each unit or proposed unit occupied for residential use to the residential tenant or residential subtenant who leases that unit. If a residential tenant or residential subtenant fails to purchase the unit during that (~~sixty-day~~) 60-day period, the offeror may offer to dispose of an interest in that unit during the following (~~one hundred eighty~~) 180 days at a price or on terms more



favorable to the offeree than the price or terms offered to the residential tenant or residential subtenant only if:

(i) Such offeror, by written notice mailed to the residential tenant's or residential subtenant's last known address, offers to sell an interest in that unit at the more favorable price and terms; and

(ii) Such residential tenant or residential subtenant fails to accept the offer in writing within ~~((ten))~~ 10 days following the mailing of the offer to the tenant or subtenant.

(b) This subsection (2) does not apply to any unit in a conversion building if that unit will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

(3) If a seller, in violation of subsection (2) of this section, conveys a unit to a purchaser for value who has no actual knowledge of the violation, the recording of the deed conveying the unit, or, in a cooperative, the conveyance of the unit, extinguishes any right a residential tenant or residential subtenant may have under subsection (2) of this section to purchase that unit, but does not affect the right of a residential tenant or residential subtenant to recover damages from the seller for a violation of subsection (2) of this section.

(4) If a notice of conversion specifies a date by which a unit or proposed unit must be vacated and otherwise complies with this chapter and chapter 59.18 RCW, the notice also constitutes a notice to vacate specified under chapter 59.18 RCW.

(5) This section does not permit termination of a lease or sublease by a declarant in violation of its terms.

(6) Notwithstanding RCW 64.90.025, a city or county may by appropriate ordinance require with respect to any conversion building within the jurisdiction of the city or county that:

(a) In addition to the statement required under RCW 64.90.620(1)(a), the public offering statement must contain a copy of a written inspection report of that building prepared by the appropriate department of the city or county listing any violations of the housing code or other governmental regulation that is applicable regardless of whether the real property is owned as a common interest community or in some other form of ownership. The inspection must be made within ~~((forty-five))~~ 45 days of the declarant's written request, and the report must be issued within ~~((fourteen))~~ 14 days of the inspection being made. The inspection may not be required with respect to any building for which a final certificate of occupancy has been issued by the city or county within the preceding ~~((twenty-four))~~ 24 months, and any fee imposed for the making of such inspection may not exceed the fee that would be imposed for the making of such an inspection for a purpose other than complying with this subsection (6)(a).

(b) Prior to the conveyance of any residential unit within a conversion building, other than a conveyance to a declarant or dealer, or affiliate of either:

(i) All violations disclosed in the inspection report provided for in (a) of this subsection, and not otherwise waived by the city or county, must be repaired; and

(ii) A certification must be obtained from the city or county that such repairs have been made. The certification must be based on a reinspection to be made

within seven days of the declarant's written request and be issued within seven days of the reinspection being made;

(c) The repairs required to be made under (b) of this subsection must be warranted by the declarant against defects due to workmanship or materials for a period of one year following the completion of such repairs;

(d) Prior to the conveyance of any residential unit within a conversion building, other than a conveyance to a declarant or dealer, or affiliate of either:

(i) The declarant must establish and maintain, during the one-year warranty period provided under (c) of this subsection, an account containing a sum equal to ~~((ten))~~ 10 percent of the actual cost of making the repairs required under (b) of this subsection;

(ii) During the one-year warranty period, the funds in the account must be used exclusively for paying the actual cost of making repairs required, or for otherwise satisfying claims made, under such warranty;

(iii) Following the expiration of the one-year warranty period, any funds remaining in the account must be immediately disbursed to the declarant; and

(iv) The declarant must notify in writing the association and the city or county as to the location of the account and any disbursements from the account;

(e)(i) A declarant must pay relocation assistance, in an amount to be determined by the city or county, which may not exceed a sum equal to three months of the residential tenant's or residential subtenant's rent at the time the conversion notice required under subsection (1) of this section is received, to residential tenants or residential subtenants:

(A) Who do not elect to purchase a unit in the common interest community;

(B) Who are in lawful occupancy for residential purposes of a unit in the conversion building; and

(C) Whose annual household income from all sources, on the date of the notice described in subsection (1) of this section, was less than an amount equal to ~~((eighty))~~ 80 percent of:

(I) The annual median income for comparably sized households in the standard metropolitan statistical area, as defined and established by the United States department of housing and urban development, in which the conversion building is located; or

(II) If the conversion building is not within a standard metropolitan statistical area, the annual median income for comparably sized households in the state of Washington, as defined and determined by said department.

The household size of a unit must be based on the number of persons actually in lawful occupancy of the unit. The residential tenant or residential subtenant actually in lawful occupancy of the unit is entitled to the relocation assistance. Relocation assistance must be paid on or before the date the residential tenant or residential subtenant vacates and is in addition to any damage deposit or other compensation or refund to which the residential tenant or residential subtenant is otherwise entitled. Unpaid rent or other amounts owed by the residential tenant or residential subtenant to the landlord may be offset against the relocation assistance.

(ii) Elderly residential tenants or residential subtenants and residential tenants or residential subtenants with special needs who otherwise meet the requirements of (e)(i)(A) of this subsection must receive relocation assistance, the greater of:

(A) The sum described in (e)(i) of this subsection; or

(B) The sum of actual relocation expenses of the residential tenant or residential subtenant, up to a maximum of ~~((one thousand five hundred dollars))~~ \$1,500 in excess of the sum described in (e)(i) of this subsection, which may include costs associated with the physical move, first month's rent, and the security deposit for the dwelling unit to which the residential tenant or residential subtenant is relocating, rent differentials for up to a six-month period, and any other reasonable costs or fees associated with the relocation. Receipts for relocation expenses must be provided to the declarant by eligible residential tenants or residential subtenants, and declarants must provide the relocation assistance to residential tenants or residential subtenants in a timely manner. The city or county may provide additional guidelines for the relocation assistance.

(iii) For the purposes of this subsection (6)(e):

(A) "Elderly" means a person who is at least ~~((sixty-five))~~ 65 years of age; and

(B) "Special needs" means a chronic mental illness or physical disability, a developmental disability, or other condition affecting cognition, disease, chemical dependency, or a medical condition that is permanent, not reversible or curable, or is long lasting, and severely limits a person's mental or physical capacity for self-care;

(f) Except as authorized under (g) of this subsection, a declarant and any dealer may not begin any construction, remodeling, or repairs to any interior portion of an occupied building that is to become a conversion building during the ~~((one hundred twenty day))~~ 120-day notice period provided for in subsection (1) of this section unless all residential tenants and residential subtenants who have elected not to purchase a unit in the common interest community and who are in lawful occupancy in the building have vacated the premises. For the purposes of this subsection:

(i) "Construction, remodeling, or repairs" means the work that is done for the purpose of establishing or selling units in a conversion building, and does not mean the work that is done to maintain the building or lot for the residential use of the existing residential tenants or residential subtenants; and

(ii) "Occupied building" means a stand-alone structure occupied by residential tenants or residential subtenants and does not include other stand-alone buildings located on the property or detached common area facilities; and

(g)(i) If a declarant or dealer has offered existing residential tenants or residential subtenants an option to terminate an existing lease or rental agreement without cause or consequence as authorized under subsection (1)(c) of this section, a declarant and any dealer may begin construction, remodeling, or repairs to interior portions of an occupied building (A) to repair or remodel vacant units to be used as model units, if the repair or remodel is limited to one model for each unit type in the building; (B) to repair or remodel a vacant unit or common element for use as a sales office; or (C) to do both.

(ii) The work performed under this subsection (6)(g) must not violate the residential tenants' or residential subtenants' rights of quiet enjoyment during the ~~((one hundred twenty day))~~ 120-day notice period.

(7) Violations of any city or county ordinance adopted as authorized under subsection (6) of this section gives rise to such remedies, penalties, and causes of action that may be lawfully imposed by the city or county. Such violations do not

invalidate the creation of the common interest community or the conveyance of any interest in the common interest community.

**NEW SECTION. Sec. 7.** (1) The affordable housing advisory board must review issues associated with the conversion of multifamily buildings to condominium ownership including, but not limited to:

(a) An assessment of the current housing market and affordability of condominium conversions, especially for first-time homebuyers;

(b) Statutory, regulatory, financial, or other barriers to condominium conversions as a viable source of housing supply for first-time homebuyers;

(c) Impacts to tenants caused by the conversion of multifamily buildings to condominium ownership, and the adequacy of programs and resources for tenant rental relocation and other assistance;

(d) Programs in other states using condominium ownership as a first-time homeownership opportunity, including those focused on employer-specific programs for teachers, police officers, firefighters, or other public service occupations in high-cost areas;

(e) Specific areas in counties subject to the buildable lands review and evaluation program in RCW 36.70A.215 where condominium conversion could provide first-time homebuyer opportunities in proximity to light rail, express bus service, or other forms of mass transit; and

(f) Concerns regarding condominium associations, particularly, accountability of condominium association boards, collection of fees, effective communication, representation regarding covenants, fairness in liens and foreclosures, and impartiality in insurance claims.

(2) The board must provide a report on its review to the appropriate standing committees of the legislature by December 1, 2022. In conducting its review, the board shall seek input from stakeholders with expertise in both the condominium conversion process and in providing tenant relocation programs and assistance.

**Sec. 8.** RCW 43.185B.020 and 2003 c 40 s 1 are each amended to read as follows:

(1) The department shall establish the affordable housing advisory board to consist of ~~((twenty-two))~~ 23 members.

(a) The following ~~((nineteen))~~ 20 members shall be appointed by the governor:

(i) Two representatives of the residential construction industry;

(ii) Two representatives of the home mortgage lending profession;

(iii) One representative of the real estate sales profession;

(iv) One representative of the apartment management and operation industry;

(v) One representative of the for-profit housing development industry;

(vi) One representative of for-profit rental housing owners;

(vii) One representative of the nonprofit housing development industry;

(viii) One representative of homeless shelter operators;

(ix) One representative of lower-income persons;

(x) One representative of special needs populations;

(xi) One representative of public housing authorities as created under chapter 35.82 RCW;

(xii) Two representatives of the Washington association of counties, one representative shall be from a county that is located east of the crest of the Cascade mountains;

(xiii) Two representatives of the association of Washington cities, one representative shall be from a city that is located east of the crest of the Cascade mountains;

(xiv) One representative to serve as chair of the affordable housing advisory board;

(xv) One representative at large; and

(xvi) One representative from a unit owners' association as defined in RCW 64.34.020 or 64.90.010.

(b) The following three members shall serve as ex officio, nonvoting members:

(i) The director or the director's designee;

(ii) The executive director of the Washington state housing finance commission or the executive director's designee; and

(iii) The secretary of social and health services or the secretary's designee.

(2)(a) The members of the affordable housing advisory board appointed by the governor shall be appointed for four-year terms, except that the chair shall be appointed to serve a two-year term. The terms of five of the initial appointees shall be for two years from the date of appointment and the terms of six of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms. The members of the advisory board shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(b) The governor, when making appointments to the affordable housing advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(3) The affordable housing advisory board shall serve as the department's principal advisory body on housing and housing-related issues, and replaces the department's existing boards and task forces on housing and housing-related issues.

(4) The affordable housing advisory board shall meet regularly and may appoint technical advisory committees, which may include members of the affordable housing advisory board, as needed to address specific issues and concerns.

(5) The department, in conjunction with the Washington state housing finance commission and the department of social and health services, shall supply such information and assistance as are deemed necessary for the advisory board to carry out its duties under this section.

(6) The department shall provide administrative and clerical assistance to the affordable housing advisory board.

Passed by the Senate February 15, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 166

[Engrossed Second Substitute Senate Bill 5764]

## APPRENTICESHIPS—HIGHER EDUCATION

AN ACT Relating to apprenticeships and higher education; amending RCW 28B.92.030; adding a new chapter to Title 28B RCW; creating a new section; and providing an expiration date.

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

**Sec. 1.** RCW 28B.92.030 and 2019 c 406 s 21 are each amended to read as follows:

~~((As used in this chapter.))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Council" means the student achievement council.

(2) "Financial aid" means either loans, grants, or both, to students who demonstrate financial need enrolled or accepted for enrollment as a student at institutions of higher education.

(3) "Financial need" means a demonstrated financial inability to bear the total cost of education as directed in rule by the office.

(4) "Institution" or "institutions of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level that is a member institution of an accrediting association recognized by rule of the council for the purposes of this section and that agrees to and complies with program rules adopted pursuant to RCW 28B.92.150. However, any institution, branch, extension or facility operating within the state of Washington that is affiliated with an institution operating in another state must be:

(i) A separately accredited member institution of any such accrediting association;

(ii) A branch of a member institution of an accrediting association recognized by rule of the 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, and has an annual enrollment of at least seven hundred full-time equivalent students;

(iii) A nonprofit institution recognized by the state of Washington as provided in RCW 28B.77.240; or

(iv) An approved apprenticeship program under chapter 49.04 RCW.

(5) "Maximum Washington college grant":

(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, is tuition and estimated fees for fifteen quarter credit hours or the equivalent, as determined by the office, including operating fees, building fees, and services and activities fees.

(b) For students attending private four-year not-for-profit institutions of higher education in Washington, in the 2019-20 academic year, is nine thousand seven hundred thirty-nine dollars and may increase each year afterwards by no more than the tuition growth factor.

(c) For students attending two-year private not-for-profit institutions of higher education in Washington, in the 2019-20 academic year, is three thousand

six hundred ninety-four dollars and may increase each year afterwards by no more than the tuition growth factor.

(d) For students attending four-year private for-profit institutions of higher education in Washington, in the 2019-20 academic year, is eight thousand five hundred seventeen dollars and may increase each year afterwards by no more than the tuition growth factor.

(e) For students attending two-year private for-profit institutions of higher education in Washington, in the 2019-20 academic year, is two thousand eight hundred twenty-three dollars and may increase each year afterwards by no more than the tuition growth factor.

(f) For students attending Western Governors University-Washington, as established in RCW 28B.77.240, in the 2019-20 academic year, is five thousand six hundred nineteen dollars and may increase each year afterwards by no more than the tuition growth factor.

(g) For students attending approved apprenticeship programs, beginning in the 2022-23 academic year, is ((tuition and fees, as determined by the office, in addition to required program supplies and equipment)) the same amount as the maximum Washington college grant for students attending two-year institutions of higher education as defined in (a) of this subsection to be used for tuition and fees, program supplies and equipment, and other costs that facilitate educational endeavors.

(6) "Office" means the office of student financial assistance.

(7) "Tuition growth factor" means an increase of no more than the average annual percentage growth rate of the median hourly wage for Washington for the previous fourteen years as the wage is determined by the federal bureau of labor statistics.

**NEW SECTION. Sec. 2.** (1) It is the intent of the legislature to remove barriers for students enrolled in a state registered apprenticeship program under chapter 49.04 RCW to access the Washington college grant.

(2) It is the goal of the legislature that students enrolled in state registered apprenticeship programs and receiving related supplemental instruction at a community and technical college have access to the Washington college grant through the financial aid office at their college. The Washington student achievement council shall verify access to the Washington college grant for students enrolled in state registered apprenticeship programs receiving their related supplemental instruction other than at a community and technical college.

(3) The state board for community and technical colleges must fully implement this goal by the beginning of the 2025-26 academic year.

(4) As part of the implementation process, the state board for community and technical colleges must collaborate with the office of student financial assistance, as defined in RCW 28B.92.030, to create a student information technology interface to simplify the application, verification of registration, eligibility, and award to students.

(5) The state board for community and technical colleges and the office of student financial assistance must establish data-sharing agreements with other state agencies to verify student data.

NEW SECTION. **Sec. 3.** (1) The student achievement council shall contract with the William D. Ruckelshaus Center to do the following:

(a) Evaluate paths to credentials for apprentices, including recommendations on the requirements and benefits of expanding the multioccupational trades degree, and exploration of other credentials that will support transfer to baccalaureate degrees or other advanced credentials for apprentices. This evaluation may include options for instructional modality and analysis of the opportunities and limitations for incorporating general education course requirements into degree pathways for apprentices. The evaluation may also include reviewing credit articulation within the college system, prior learning assessments, and competency-based models, as applicable;

(b) Examine national best practices in delivery and award of educational credentials to apprentices. This exploration may include assessment of the governance structures and operational models for delivery of apprenticeship degree pathways, including operational considerations and costs associated with those models, and make recommendations on the model or models best suited for implementation in Washington with consideration on sustainably funding and growing state registered apprenticeships in the future;

(c) Research apprentices' demand for degrees, for individuals in, or who have completed, a state registered apprenticeship program;

(d) Review the current funding model for apprentices within the community and technical college system, with consideration on the use of state funds for apprenticeships, and national funding structures for apprenticeship programs that could be applied within Washington state. The center must consult with the Washington state apprenticeship council established under chapter 49.04 RCW, the state board for community and technical colleges, the associated general contractors of Washington, the association of Washington business, and any other relevant or impacted parties as needed to provide recommendations to the legislature on a sustainable funding model for related supplemental instruction and credit for apprentices through the community and technical college system to ensure it fully covers institutional and apprenticeship program costs of related supplemental instruction. This funding model review may include institutional costs of developing, administering, delivering, hosting, instructing, and contracting. These recommendations must be included in the annual report established in subsection (2) of this section;

(e) Consult with the state board for community and technical colleges, an organization representing the presidents of the public four-year institutions of higher education, the office of the superintendent of public instruction, the joint transfer council of Washington, the department of labor and industries, the Washington state labor council, the associated general contractors of Washington, the association of Washington business, the Washington building trades council, the student achievement council, the independent colleges of Washington, private career colleges, an accrediting body, career connect, and other stakeholders with interests and expertise in apprenticeship training and higher education mobility;

(f) Identify and remove barriers for apprentices to access the Washington college grant program, established under RCW 28B.92.200, and all other student services and support programs and resources.



(2) The student achievement council shall report annually by December 1st, beginning in 2023, in compliance with RCW 43.01.036, the William D. Ruckelshaus Center's progress, findings, and recommendations to the appropriate higher education committees of the legislature on the evaluations in subsection (1) of this section. The annual report in 2026 shall provide viable policy options for degree pathways for individuals who complete state registered apprenticeship programs.

(3) The apprenticeship council, in consultation with the state board for community and technical colleges, the student achievement council, an organization representing the presidents of the public four-year institutions of higher education, and any other relevant or impacted parties as needed, shall explore whether the state should establish an institution, or centralized program, for apprentices to receive related supplemental instruction for credit towards a degree. A report on their findings, with a recommendation, must be included in the December 1, 2023, annual report established in subsection (2) of this section.

(4) This section expires July 1, 2028.

**NEW SECTION. Sec. 4.** All institutions of higher education, as defined in RCW 28B.10.016, must establish a policy for granting as many credits as possible and appropriate, for related supplemental instruction in active state apprenticeship programs, registered during or before July 1, 2022, by the 2028-29 school year. For all state registered apprenticeship programs approved after July 1, 2022, all institutions of higher education, as defined in RCW 28B.10.016, must establish a policy for granting as many credits, as possible and appropriate, for related supplemental instruction within six years of the program's registration. While establishing credits, institutions of higher education must consult with their faculty representatives. Credits are at the sole discretion of each institution of higher education and must be determined in consultation with their faculty representatives. Credits established by institutions of higher education are not intended to impact the possible revision of previously approved related supplemental instruction in a state registered apprenticeship program.

**NEW SECTION. Sec. 5.** Sections 2 through 4 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, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 7, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 167

[Substitute Senate Bill 5790]

### INTELLECTUAL AND DEVELOPMENTAL DISABILITIES—SCHOOL TO WORK PROGRAM

AN ACT Relating to strengthening critical community support services for individuals with intellectual and developmental disabilities; amending RCW 74.29.020, 74.29.037, 74.29.050,

74.29.080, and 28A.155.220; reenacting and amending RCW 74.29.010; adding a new section to chapter 74.29 RCW; and creating a new section.

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

**Sec. 1.** RCW 74.29.010 and 2010 c 94 s 26 are each reenacted and amended to read as follows:

(1) "Independence" means a reasonable degree of restoration from dependency upon others to self-direction and greater control over circumstances of one's life for personal needs and care and includes but is not limited to the ability to live in one's home.

(2) "Individual with disabilities" means an individual:

(a) Who has a physical, mental, or sensory disability, which requires vocational rehabilitation services to prepare for, enter into, engage in, retain, or engage in and retain gainful employment consistent with his or her capacities and abilities; or

(b) Who has a physical, mental, or sensory impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of vocational rehabilitation or independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment.

(3) "Individual with severe disabilities" means an individual with disabilities:

(a) Who has a physical, mental, or sensory impairment that seriously limits one or more functional capacities, such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills, in terms of employment outcome, and/or independence and participation in family or community life;

(b) Whose rehabilitation can be expected to require multiple rehabilitation services over an extended period of time; and

(c) Who has one or more physical, mental, or sensory disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and rehabilitation needs to cause comparable substantial functional limitation.

(4) "Job support services" means ongoing goods and services provided after vocational rehabilitation, subject to available funds, that support an individual with severe disabilities in employment. Such services include, but are not limited to, extraordinary supervision or job coaching.

(5) "Physical, mental, or sensory disability" means a physical, mental, or sensory condition which materially limits, contributes to limiting or, if not corrected or accommodated, will probably result in limiting an individual's activities or functioning.

(6) "Rehabilitation services" means goods or services provided to: (a) Determine eligibility and rehabilitation needs of individuals with disabilities,

and/or (b) enable individuals with disabilities to attain or retain employment and/or independence, and/or (c) contribute substantially to the rehabilitation of a group of individuals with disabilities. To the extent federal funds are available, goods and services may include, but are not limited to, the establishment, construction, development, operation and maintenance of community rehabilitation programs and independent living centers, as well as special demonstration projects.

(7) "~~((State agency))~~ Department" means the department of social and health services.

**Sec. 2.** RCW 74.29.020 and 1993 c 213 s 3 are each amended to read as follows:

Subject to available funds, and consistent with federal law and regulations the ~~((state agency))~~ department shall:

- (1) Develop statewide rehabilitation programs;
- (2) Provide vocational rehabilitation services, independent living services, and/or job support services to individuals with disabilities or severe disabilities;
- (3) Disburse all funds provided by law and may receive, accept and disburse such gifts, grants, conveyances, devises and bequests of real and personal property from public or private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out rehabilitation services as specified by law and the regulations of the ~~((state agency))~~ department; and may sell, lease or exchange real or personal property according to the terms and conditions thereof. Any money so received shall be deposited in the state treasury for investment, reinvestment or expenditure in accordance with the conditions of its receipt and RCW 43.88.180;
- (4) Appoint and fix the compensation and prescribe the duties, of the personnel necessary for the administration of this chapter, unless otherwise provided by law;
- (5) Make exploratory studies, do reviews, and research relative to rehabilitation;
- (6) Coordinate with the state rehabilitation advisory council and the state independent living advisory council on the administration of the programs;
- (7) Report to the governor and to the legislature on the administration of this chapter, as requested; and
- (8) Adopt rules, in accord with chapter 34.05 RCW, necessary to carry out the purposes of this chapter.

**Sec. 3.** RCW 74.29.037 and 1993 c 213 s 6 are each amended to read as follows:

The ~~((state agency))~~ department may establish cooperative agreements with other state and local agencies.

**Sec. 4.** RCW 74.29.050 and 1969 ex.s. c 223 s 28A.10.050 are each amended to read as follows:

The state of Washington does hereby:

- (1) Accept the provisions and maximum possible benefits resulting from any acts of congress which provide benefits for the purposes of this chapter;
- (2) Designate the state treasurer as custodian of all moneys received by the state from appropriations made by the congress of the United States for purposes

of this chapter, and authorize the state treasurer to make disbursements therefrom upon the order of the ~~((state agency))~~ department; and

(3) Empower and direct the ~~((state agency))~~ department to cooperate with the federal government in carrying out the provisions of this chapter or of any federal law or regulation pertaining to vocational rehabilitation, and to comply with such conditions as may be necessary to assure the maximum possible benefits resulting from any such federal law or regulation.

**Sec. 5.** RCW 74.29.080 and 1993 c 213 s 4 are each amended to read as follows:

(1) Determination of eligibility and need for rehabilitation services and determination of eligibility for job support services shall be made by the ~~((state agency))~~ department for each individual according to its established rules, policies, procedures, and standards.

(2) The ~~((state agency))~~ department may purchase, from any source, rehabilitation services and job support services for individuals with disabilities, subject to the individual's income or other resources that are available to contribute to the cost of such services.

(3) The ~~((state agency))~~ department shall maintain registers of individuals and organizations which meet required standards and qualify to provide rehabilitation services and job support services to individuals with disabilities. Eligibility of such individuals and organizations shall be based upon standards and criteria promulgated by the ~~((state agency))~~ department.

**NEW SECTION. Sec. 6.** A new section is added to chapter 74.29 RCW to read as follows:

The department of social and health services shall:

(1) Establish a school to work program in all counties in the state to work with all students with intellectual and developmental disabilities who are potentially eligible to receive adult support services from the developmental disabilities administration of the department and are receiving high school transition services in order to connect these students with supported employment services; and

(2) In collaboration with the office of the superintendent of public instruction, the counties administering supported employment services in collaboration with the developmental disabilities administration of the department, the department of services for the blind, and any other relevant state agency working with students who are potentially eligible for adult support services from the developmental disabilities administration of the department shall:

(a) Create a statewide council to:

(i) Establish common guidelines and outcome goals across regional interagency transition networks to ensure equitable access through system navigation for individuals receiving high school transition services and connection to services after leaving the school system; and

(ii) Establish a referral and information system that helps students who are potentially eligible for adult support services from the developmental disabilities administration of the department who are transitioning from high school, and their families or guardians, connect to the necessary services and agencies that support the needs of adults with intellectual and developmental disabilities; and

(b) Establish regional interagency transition networks as proposed in the 2020 transition collaborative summative report. Each regional network shall include representation from schools, counties, the developmental disabilities administration of the department, the regional division of vocational rehabilitation, service providers, community members, and students and families. The regional networks shall identify improvement goals and report no less than annually on progress or barriers to achieving these goals to the statewide council.

**Sec. 7.** RCW 28A.155.220 and 2015 c 217 s 2 are each amended to read as follows:

(1) The office of the superintendent of public instruction must establish interagency agreements with the department of social and health services, the department of services for the blind, and any other state agency that provides high school transition services for special education students. Such interagency agreements shall not interfere with existing individualized education programs, nor override any individualized education program team's decision-making power. The purpose of the interagency agreements is to foster effective collaboration among the multiple agencies providing transition services for individualized education program-eligible special education students from the beginning of transition planning, as soon as educationally and developmentally appropriate, through age twenty-one, or through high school graduation, whichever occurs first. Interagency agreements are also intended to streamline services and programs, promote efficiencies, and establish a uniform focus on improved outcomes related to self-sufficiency.

(2)(a) When educationally and developmentally appropriate, the interagency responsibilities and linkages with transition services under subsection (1) of this section must be addressed in a transition plan to a postsecondary setting in the individualized education program of a student with disabilities.

(b) Transition planning shall be based upon educationally and developmentally appropriate transition assessments that outline the student's individual needs, strengths, preferences, and interests. Transition assessments may include observations, interviews, inventories, situational assessments, formal and informal assessments, as well as academic assessments.

(c) The transition services that the transition plan must address include activities needed to assist the student in reaching postsecondary goals and courses of study to support postsecondary goals.

(d) Transition activities that the transition plan may address include instruction, related services, community experience, employment and other adult living objectives, daily living skills, and functional vocational evaluation.

(e) When educationally and developmentally appropriate, a discussion must take place with the student and parents, and others as needed, to determine the postsecondary goals or postschool vision for the student. This discussion may be included as part of an annual individualized education program review, high school and beyond plan meeting, or any other meeting that includes parents, students, and educators. The postsecondary goals included in the transition plan shall be goals that are measurable and must be based on appropriate transition assessments related to training, education, employment, and independent living

skills, when necessary. The goals must also be based on the student's needs, while considering the strengths, preferences, and interests of the student.

(f) As the student gets older, changes in the transition plan may be noted in the annual update of the student's individualized education program.

(g) A ~~((student with disabilities who has a high school and beyond plan may use the plan to comply with the))~~ transition plan required under this subsection (2) must be aligned with a student's high school and beyond plan.

(3) To the extent that data is available through data-sharing agreements established by the education data center under RCW 43.41.400, the education data center must monitor the following outcomes for individualized education program-eligible special education students after high school graduation:

(a) The number of students who, within one year of high school graduation:

(i) Enter integrated employment paid at the greater of minimum wage or competitive wage for the type of employment, with access to related employment and health benefits; or

(ii) Enter a postsecondary education or training program focused on leading to integrated employment;

(b) The wages and number of hours worked per pay period;

(c) The impact of employment on any state and federal benefits for individuals with disabilities;

(d) Indicators of the types of settings in which students who previously received transition services primarily reside;

(e) Indicators of improved economic status and self-sufficiency;

(f) Data on those students for whom a postsecondary or integrated employment outcome does not occur within one year of high school graduation, including:

(i) Information on the reasons that the desired outcome has not occurred;

(ii) The number of months the student has not achieved the desired outcome; and

(iii) The efforts made to ensure the student achieves the desired outcome.

(4) To the extent that the data elements in subsection (3) of this section are available to the education data center through data-sharing agreements, the office of the superintendent of public instruction must prepare an annual report using existing resources and submit the report to the legislature.

(5) To minimize gaps in services through the transition process, no later than three years before students receiving special education services leave the school system, the office of the superintendent of public instruction shall transmit a list of potentially eligible students to the department of social and health services, the counties, the department of services for the blind, and any other state agency working with individuals with intellectual and developmental disabilities. The office of the superintendent of public instruction shall ensure that consent be obtained prior to the release of this information as required in accordance with state and federal requirements.

**NEW SECTION. Sec. 8.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 7, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 168

[Substitute Senate Bill 5791]

### LAW ENFORCEMENT OFFICERS' AND FIREFIGHTERS' RETIREMENT SYSTEM PLAN 1— LUMP SUM BENEFIT

AN ACT Relating to law enforcement officers' and firefighters' retirement system benefits; and adding a new section to chapter 41.26 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 41.26 RCW under the subchapter heading "plan 1" to read as follows:

(1) Law enforcement officers' and firefighters' plan 1 active members, term-vested members, retirees, and survivors eligible for benefits under the plan 1 provisions of this chapter on the effective date of this section shall be eligible to receive the plan 1 lump sum defined benefit of \$100 per service credit month payable by January 31, 2023.

(a) Members who retired for an in the line of duty disability under RCW 41.26.120 shall receive the greater of the lump sum defined benefit of \$100 per service credit month or a lump sum defined benefit of \$20,000.

(b) A member's beneficiary is eligible for an in the line of duty death benefit under RCW 41.26.048. If there is more than one eligible beneficiary the lump sum defined benefit will be distributed in accordance with RCW 41.26.048.

(c) If the member is deceased the member's survivor beneficiary under RCW 41.26.160 is eligible for this lump sum defined benefit.

(2) If a member is active or term-vested, interest on the lump sum defined benefit as determined by the director of retirement systems shall accumulate from January 1, 2023, until distribution to the participant upon retirement from service or for disability. For the purposes of this section, a "term-vested member" is a member who has rendered five years of service, has not withdrawn his or her member contributions, and who has not applied for retirement.

(3) If a member dies after the effective date of this section but before distribution of the lump sum defined benefit created in this section occurs, the distribution shall be made according to the member's beneficiary designation under this chapter.

(4) The lump sum defined benefit created in this section is subject to RCW 41.26.053.

Passed by the Senate February 15, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 169

[Engrossed Second Substitute Senate Bill 5796]

## CANNABIS REVENUE APPROPRIATIONS—MODIFICATION

AN ACT Relating to restructuring cannabis revenue appropriations to provide transparency and accountability and to increase community infrastructure and investment; amending RCW 69.50.530 and 69.50.540; and creating a new section.

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

**Sec. 1.** RCW 69.50.530 and 2018 c 299 s 909 are each amended to read as follows:

The dedicated (~~((marijuana))~~) **cannabis** account is created in the state treasury. All moneys received by the (~~((state liquor and cannabis))~~) board, or any employee thereof, from marijuana-related activities must be deposited in the account. Unless otherwise provided in chapter 4, Laws of 2015 2nd sp. sess., all marijuana excise taxes collected from sales of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products under RCW 69.50.535, and the license fees, penalties, and forfeitures derived under this chapter from marijuana producer, marijuana processor, marijuana researcher, and marijuana retailer licenses, must be deposited in the account. Moneys in the account may only be spent after appropriation. (~~((During the 2015-2017 and 2017-2019 fiscal biennia, the legislature may transfer from the dedicated marijuana account to the basic health plan trust account such amounts as reflect the excess fund balance of the account.))~~)

**Sec. 2.** RCW 69.50.540 and 2021 c 334 s 986 are each amended to read as follows:

~~((The legislature must annually appropriate moneys in the dedicated marijuana account created in RCW 69.50.530 as follows:))~~

(1) For the purposes (~~((listed in))~~) of this subsection (1), the legislature must appropriate (~~((to the respective agencies amounts sufficient to make the following expenditures on a quarterly basis or as))~~) the amounts provided in this subsection:

(a) (~~((One hundred twenty five thousand dollars to the health care authority to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and board. The survey must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;))~~)

(b) ~~Fifty thousand dollars to the health care authority for the purpose of contracting with the Washington state institute for public policy to conduct the cost benefit evaluation and produce the reports described in RCW 69.50.550. This appropriation ends after production of the final report required by RCW 69.50.550;~~



~~(e) Five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use;~~

~~(d)(i) An amount not less than one million two hundred fifty thousand dollars to the board for administration of this chapter as appropriated in the omnibus appropriations act;~~

~~(ii) One million three hundred twenty-three thousand dollars for fiscal year 2020 to the health professions account established under RCW 43.70.320 for the development and administration of the marijuana authorization database by the department of health;~~

~~(iii) Two million four hundred fifty-three thousand dollars for fiscal year 2020 and two million four hundred twenty-three thousand dollars for fiscal years 2021, 2022, and 2023 to the Washington state patrol for a drug enforcement task force. It is the intent of the legislature that this policy will be continued in the 2021-2023 fiscal biennium; and~~

~~(iv) Ninety-eight thousand dollars for fiscal year 2019 to the department of ecology for research on accreditation of marijuana product testing laboratories;~~

~~(e) Four hundred sixty-five thousand dollars for fiscal year 2020, four hundred sixty-four thousand dollars for fiscal year 2021, two hundred seventy thousand dollars in fiscal year 2022, and two hundred seventy-six thousand dollars in fiscal year 2023 to the department of ecology for implementation of accreditation of marijuana product testing laboratories;~~

~~(f) One hundred eighty-nine thousand dollars for fiscal year 2020 to the department of health for rule making regarding compassionate care renewals;~~

~~(g) Eight hundred eighty thousand dollars for each of fiscal years 2020 through 2023 to the department of health for the administration of the marijuana authorization database;~~

~~(h) Six hundred thirty-five thousand dollars for fiscal year 2020, six hundred thirty-five thousand dollars for fiscal year 2021, six hundred twenty-one thousand dollars for fiscal year 2022, and six hundred twenty-seven thousand dollars for fiscal year 2023 to the department of agriculture for compliance-based laboratory analysis of pesticides in marijuana;~~

~~(i) One million six hundred fifty thousand dollars for fiscal year 2022 and one million six hundred fifty thousand dollars for fiscal year 2023 to the department of commerce to fund the marijuana social equity technical assistance competitive grant program under RCW 43.330.540; and~~

~~(j) One hundred sixty-three thousand dollars for fiscal year 2022 and one hundred fifty-nine thousand dollars for fiscal year 2023 to the department of commerce to establish a roster of mentors as part of the cannabis social equity technical assistance grant program under Engrossed Substitute House Bill No. 1443 (cannabis industry/equity) [chapter 169, Laws of 2021]; and~~

~~(2) From the amounts in the dedicated marijuana account after appropriation of the amounts identified in subsection (1) of this section, the legislature must appropriate for the purposes listed in this subsection (2) as follows:~~

~~(a)(i) Up to fifteen percent to the health care authority for the development, implementation, maintenance, and evaluation of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance use disorder, substance abuse or substance dependence, as these terms are defined in~~

the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school-age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation, mental health services for children and youth, and services for pregnant and parenting women; PROVIDED, That:

~~(A) Of the funds appropriated under (a)(i) of this subsection for new programs and new services, at least eighty five percent must be directed to evidence-based or research-based programs and practices that produce objectively measurable results and, by September 1, 2020, are cost-beneficial; and~~

~~(B) Up to fifteen percent of the funds appropriated under (a)(i) of this subsection for new programs and new services may be directed to proven and tested practices, emerging best practices, or promising practices.~~

~~(ii) In deciding which programs and practices to fund, the director of the health care authority must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute.~~

~~(iii) For each fiscal year, the legislature must appropriate a minimum of twenty five million five hundred thirty six thousand dollars under this subsection (2)(a);~~

~~(b)(i) Up to ten percent to the department of health for the following, subject to (b)(ii) of this subsection (2):~~

~~(A) Creation, implementation, operation, and management of a marijuana education and public health program that contains the following:~~

~~(I) A marijuana use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or research-based public health approaches to minimizing the harms associated with marijuana use, and does not solely advocate an abstinence-only approach;~~

~~(II) A grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of marijuana use by youth; and~~

~~(III) Media based education campaigns across television, internet, radio, print, and out of home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by marijuana use; and~~

~~(B) The Washington poison control center.~~

~~(ii) For each fiscal year, the legislature must appropriate a minimum of nine million seven hundred fifty thousand dollars under this subsection (2)(b);~~

~~(c)(i) Up to six tenths of one percent to the University of Washington and four tenths of one percent to Washington State University for research on the short and long term effects of marijuana use, to include but not be limited to formal and informal methods for estimating and measuring intoxication and impairment, and for the dissemination of such research.~~

~~(ii) For each fiscal year, except for the 2019-2021 and 2021-2023 fiscal biennia, the legislature must appropriate a minimum of one million twenty-one thousand dollars to the University of Washington. For each fiscal year, except for the 2019-2021 and 2021-2023 fiscal biennia, the legislature must appropriate a minimum of six hundred eighty-one thousand dollars to Washington State~~

University under this subsection (2)(e). It is the intent of the legislature that this policy will be continued in the 2023-2025 fiscal biennium;

~~(d) Fifty percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;~~

~~(e) Five percent to the Washington state health care authority to be expended exclusively through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;~~

~~(f)(i) Up to three-tenths of one percent to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW.~~

~~(ii) For each fiscal year, the legislature must appropriate a minimum of five hundred eleven thousand dollars to the office of the superintendent of public instruction under this subsection (2)(f); and~~

~~(g) At the end of each fiscal year, the treasurer must transfer any amounts in the dedicated marijuana account that are not appropriated pursuant to subsection (1) of this section and this subsection (2) into the general fund, except as provided in (g)(i) of this subsection (2).~~

~~(i) Beginning in fiscal year 2018, if marijuana excise tax collections deposited into the general fund in the prior fiscal year exceed twenty-five million dollars, then each fiscal year the legislature must appropriate an amount equal to thirty percent of all marijuana excise taxes deposited into the general fund the prior fiscal year to the treasurer for distribution to counties, cities, and towns as follows:~~

~~(A) Thirty percent must be distributed to counties, cities, and towns where licensed marijuana retailers are physically located. Each jurisdiction must receive a share of the revenue distribution under this subsection (2)(g)(i)(A) based on the proportional share of the total revenues generated in the individual jurisdiction from the taxes collected under RCW 69.50.535, from licensed marijuana retailers physically located in each jurisdiction. For purposes of this subsection (2)(g)(i)(A), one hundred percent of the proportional amount attributed to a retailer physically located in a city or town must be distributed to the city or town.~~

~~(B) Seventy percent must be distributed to counties, cities, and towns ratably on a per capita basis. Counties must receive sixty percent of the distribution, which must be disbursed based on each county's total proportional population. Funds may only be distributed to jurisdictions that do not prohibit the siting of any state licensed marijuana producer, processor, or retailer.~~

~~(ii) Distribution amounts allocated to each county, city, and town must be distributed in four installments by the last day of each fiscal quarter.~~

~~(iii) By September 15th of each year, the board must provide the state treasurer the annual distribution amount, if any, for each county and city as determined in (g)(i) of this subsection (2).~~

~~(iv) The total share of marijuana excise tax revenues distributed to counties and cities in (g)(i) of this subsection (2) may not exceed fifteen million dollars in fiscal years 2018, 2019, 2020, and 2021, and twenty million dollars per fiscal year thereafter) \$12,500,000 annually to the board for administration of this chapter as appropriated in the omnibus appropriations act;~~

(b) \$11,000,000 annually to the department of health for the following:

(i) Creation, implementation, operation, and management of a cannabis, vapor product, and commercial tobacco education and public health program that contains the following:

(A) A cannabis use public health hotline that provides referrals to substance abuse treatment providers, uses evidence-based or research-based public health approaches to minimizing the harms associated with cannabis use, and does not solely advocate an abstinence-only approach;

(B) Programs that support development and implementation of coordinated intervention strategies for the prevention and reduction of commercial tobacco, vapor product, and cannabis use by youth and cannabis cessation treatment services, including grant programs to local health departments or other local community agencies;

(C) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by cannabis use; and

(D) Outreach to priority populations regarding commercial tobacco, vapor product, and cannabis use, prevention, and cessation; and

(ii) The Washington poison control center;

(c)(i) \$3,000,000 annually to the department of commerce to fund cannabis social equity grants under RCW 43.330.540; and

(ii) \$200,000 annually to the department of commerce to fund technical assistance through a roster of mentors under RCW 43.330.540;

(d) \$200,000 annually, until June 30, 2032, to the health care authority to contract with the Washington state institute for public policy to conduct the cost-benefit evaluations and produce the reports described in RCW 69.50.550;

(e) \$25,000 annually to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by cannabis use;

(f) \$300,000 annually to the University of Washington and \$175,000 annually to the Washington State University for research on the short-term and long-term effects of cannabis use to include, but not be limited to, formal and informal methods for estimating and measuring intoxication and impairments, and for the dissemination of such research;

(g) \$550,000 annually to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW;

(h) \$2,423,000 for fiscal year 2022 and \$2,423,000 for fiscal year 2023 to the Washington state patrol for a drug enforcement task force;

(i) \$270,000 for fiscal year 2022 and \$290,000 for fiscal year 2023 to the department of ecology for implementation of accreditation of cannabis product testing laboratories;

(j) \$800,000 for each of fiscal years 2020 through 2023 to the department of health for the administration of the cannabis authorization database; and

(k) \$621,000 for fiscal year 2022 and \$635,000 for fiscal year 2023 to the department of agriculture for compliance-based laboratory analysis of pesticides in cannabis.

(2) Subsections (1)(a) through (g) of this section must be adjusted annually based on the United States bureau of labor statistics' consumer price index for the Seattle area.

(3) After appropriation of the amounts identified in subsection (1) of this section, the legislature must annually appropriate such remaining amounts for the purposes listed in this subsection (3) as follows:

(a) Fifty-two percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW:

(b) Eleven percent to the health care authority to:

(i) Design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and board. The survey must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(ii) Develop, implement, maintain, and evaluate programs and practices aimed at the prevention or reduction of maladaptive substance use, substance use disorder, substance abuse or substance dependence, as these terms are defined in the diagnostic and statistical manual of mental disorders, among middle school and high school-age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation, mental health services for children and youth, and services for pregnant and parenting women. In deciding which programs and practices to fund under this subsection (3)(b)(ii), the director of the health care authority must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute; and

(iii) Contract with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

(c)(i) One and one-half percent to counties, cities, and towns where licensed cannabis retailers are physically located. Each jurisdiction must receive a share of the revenue distribution under this subsection (3)(c)(i) based on the proportional share of the total revenues generated in the individual jurisdiction from the taxes collected under RCW 69.50.535, from licensed cannabis retailers physically located in each jurisdiction. For purposes of this subsection (3)(c), 100 percent of the proportional amount attributed to a retailer physically located in a city or town must be distributed to the city or town;

(ii) Three and one-half percent to counties, cities, and towns ratably on a per capita basis. Counties must receive 60 percent of the distribution based on each county's total proportional population. Funds may only be distributed to

jurisdictions that do not prohibit the siting of any state licensed cannabis producer, processor, or retailer;

(iii) By September 15th of each year, the board must provide the state treasurer the annual distribution amount made under this subsection (3)(c), if any, for each county and city as determined in (c)(i) and (ii) of this subsection; and

(iv) Distribution amounts allocated to each county, city, and town in (c)(i) and (ii) of this subsection must be distributed in four installments by the last day of each fiscal quarter; and

(d) Thirty-two percent must be deposited in the state general fund.

**NEW SECTION. Sec. 3.** The joint legislative audit and review committee shall conduct a review of the appropriation and expenditure of cannabis revenues pursuant to RCW 69.50.540 and report to the appropriate legislative committees by December 1, 2023. The report shall include an examination on the appropriation and expenditure of these funds to evaluate: How these funds have been appropriated and expended; whether the appropriations and expenditures are consistent with the provisions of RCW 69.50.540; and whether information related to the appropriations and expenditures is readily available to the general public. The report shall include options for increasing the transparency and accountability related to the appropriation and expenditure of cannabis-related revenues.

Passed by the Senate March 7, 2022.

Passed by the House March 4, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 170

[Substitute Senate Bill 5799]

### HEALTH PROVIDER CLINICS AND AFFILIATED ORGANIZATIONS—WORKFORCE EDUCATION INVESTMENT SURCHARGE

AN ACT Relating to modifying the application of the workforce education investment advanced computing surcharge to provider clinics and affiliated organizations; amending RCW 82.04.299; creating a new section; and providing an effective date.

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

**Sec. 1.** RCW 82.04.299 and 2020 c 2 s 4 are each amended to read as follows:

(1)(a) Beginning with business activities occurring on or after April 1, 2020, in addition to the taxes imposed under RCW 82.04.290(2), a workforce education investment surcharge is imposed on select advanced computing businesses. The surcharge is equal to the gross income of the business subject to the tax under RCW 82.04.290(2), multiplied by the rate of 1.22 percent.

(b) Except as provided in (e) of this subsection (1), in no case will the combined surcharge imposed under this subsection (1) paid by all members of an affiliated group be more than nine million dollars annually.

(c) For persons subject to the surcharge imposed under this subsection (1) that report under one or more tax classifications, the surcharge applies only to business activities taxed under RCW 82.04.290(2).

(d) The surcharge imposed under this subsection (1) must be reported and paid on a quarterly basis in a manner as required by the department. Returns and amounts payable under this subsection (1) are due by the last day of the month immediately following the end of the reporting period covered by the return. All other taxes must be reported and paid as required under RCW 82.32.045.

(e)(i) To aid in the effective administration of the surcharge in this subsection (1), the department may require persons believed to be engaging in advanced computing or affiliated with a person believed to be engaging in advanced computing to disclose whether they are a member of an affiliated group and, if so, to identify all other members of the affiliated group subject to the surcharge.

(ii) If the department establishes, by clear, cogent, and convincing evidence, that one or more members of an affiliated group, with intent to evade the surcharge under this subsection (1), failed to fully comply with this subsection (1)(e), the department must assess against that person, or those persons collectively, a penalty equal to fifty percent of the amount of the total surcharge payable by all members of that affiliated group for the calendar year during which the person or persons failed to fully comply with this subsection (1)(e). The penalty under this subsection (1)(e) is in lieu of and not in addition to the evasion penalty under RCW 82.32.090(7).

(f) For the purposes of this subsection (1) the following definitions apply:

(i) "Advanced computing" means designing or developing computer software or computer hardware, whether directly or contracting with another person, including modifications to computer software or computer hardware, cloud computing services, or operating an online marketplace, an online search engine, or online social networking platform;

(ii) "Affiliate" and "affiliated" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person;

(iii) "Affiliated group" means a group of two or more persons that are affiliated with each other;

(iv) "Cloud computing services" means on-demand delivery of computing resources, such as networks, servers, storage, applications, and services, over the internet;

(v) "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise; and

(vi) "Select advanced computing business" means a person who is a member of an affiliated group with at least one member of the affiliated group engaging in the business of advanced computing, and the affiliated group has worldwide gross revenue of more than twenty-five billion dollars during the immediately preceding calendar year. A person who is primarily engaged within this state in the provision of commercial mobile service, as that term is defined in 47 U.S.C. Sec. 332(d)(1), shall not be considered a select advanced computing business. A person who is primarily engaged in this state in the operation and provision of access to transmission facilities and infrastructure that the person owns or leases for the transmission of voice, data, text, sound, and video using wired telecommunications networks shall not be considered a select advanced

computing business. A person that is primarily engaged in business as a "financial institution" as defined in RCW 82.04.29004, as that section existed on January 1, 2020, shall not be considered a select advanced computing business. For purposes of this subsection (1)(f)(vi), "primarily" is determined based on gross income of the business.

(2)(a) The workforce education investment surcharge under this section does not apply to ~~(any)~~;

(i) Any hospital as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW; or

(ii) A provider clinic offering primary care, multispecialty and surgical services, including behavioral health services, and any affiliate of the provider clinic if the affiliate is an organization that offers health care services or provides administrative support for a provider clinic, or is an independent practice association or accountable care organization.

(b) The exemptions under this subsection (2) do not apply to amounts received by any member of an affiliated group other than the businesses described in (a) of this subsection.

(c) For purposes of the exemption in (a)(ii) of this subsection:

(i) "Health care services" means services offered by health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(ii) "Primary care" means wellness and prevention services and the diagnosis and treatment of health conditions.

(3) Revenues from the surcharge under this section must be deposited directly into the workforce education investment account established in RCW 43.79.195.

(4) The department has the authority to determine through an audit or other investigation whether a person is subject to the surcharge imposed in this section.

NEW SECTION. Sec. 2. RCW 82.32.805 and 82.32.808 do apply to this act.

NEW SECTION. Sec. 3. This act takes effect July 1, 2022.

Passed by the Senate March 4, 2022.

Passed by the House March 9, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 171

[Substitute Senate Bill 5814]

### SUSPECTED VICTIMS OF CHILD ABUSE—MEDICAL EVALUATION FUNDING

AN ACT Relating to providing funding for medical evaluations of suspected victims of child abuse; adding new sections to chapter 7.68 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that the crime victims' compensation fund was established in 1973 to cover medical bills and other costs associated with being the victim of a crime. The legislature finds that state law requires the crime victims' compensation fund to pay the costs of sexual



assault examinations of minors when they are performed to gather evidence for possible prosecution. The legislature finds that in 2015, the legislature passed Substitute Senate Bill No. 5897 to provide funding for medical evaluations of suspected child victims of physical abuse. The legislature finds that this law expired June 30, 2019, and was not extended in the omnibus operating appropriations act. The legislature recognizes that while sexual assault examinations are currently provided for by the crime victims' compensation fund, examinations for child victims of physical assault are not provided for. The legislature finds that medical examinations are important for children who may be victims of physical abuse. The legislature finds that contributing to the cost of these examinations will incentivize timely evaluations, lead to early identification of abuse, and potentially prevent a child from further traumatization or injury. The legislature therefore resolves to reenact the provision of medical examinations of children who may be victims of physical abuse.

**NEW SECTION. Sec. 2.** A new section is added to chapter 7.68 RCW to read as follows:

(1) No costs incurred by an institution as defined in RCW 26.44.020 for the examination of a suspected victim of assault of a child under chapter 9A.36 RCW may be billed or charged directly or indirectly to the suspected victim of the assault. Subject to the availability of amounts appropriated for this specific purpose, the department must pay all costs incurred by an institution as defined in RCW 26.44.020 for the examination of a suspected victim of assault of a child, provided that the cost of the examination would not otherwise be covered by the department.

(2) The department must notify the office of financial management and the fiscal committees of the legislature if it projects that the cost of services provided under this section exceeds the amount of funding provided by the legislature solely for the purposes of this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 7.68 RCW to read as follows:

By November 1, 2023, and annually thereafter, and in compliance with RCW 43.01.036, the department must submit a report to the legislature and governor with the following information: The number of requests to pay for physical abuse exams for child victims of physical assault pursuant to section 2 of this act, how many of these requests are approved and denied including the reasons for denial, how many of the exams are covered for another reason, and any other information the department believes is beneficial.

**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, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the Senate February 11, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 172

[Engrossed Senate Bill 5849]

## CERTAIN TAX INCENTIVES—MODIFICATION

AN ACT Relating to tax incentives; amending RCW 82.25.030 and 82.04.294; 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 84.25.030 and 2021 c 218 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) "City" means any city or town.

(2) "Family living wage job" means a job that offers health care benefits with a wage that is sufficient for raising a family. A family living wage job must have an average wage of \$23 an hour or more, working 2,080 hours per year on the subject site, as adjusted annually for inflation by the consumer price index. The family living wage may be increased by the local authority based on regional factors and wage conditions.

(3) "Governing authority" means the local legislative authority of a city or county having jurisdiction over the property for which an exemption may be applied for under this chapter.

(4) "Growth management act" means chapter 36.70A RCW.

(5) "Industrial/manufacturing facilities" means building improvements that are 10,000 square feet or larger, representing a minimum improvement valuation of \$800,000 for uses categorized as "division D: manufacturing" or "division E: transportation (major groups 40-42, 45, or 47-48)" by the United States department of labor in the occupation safety and health administration's standard industrial classification manual, provided, a city may limit the tax exemption to manufacturing uses.

(6) "Lands zoned for industrial and manufacturing uses" means lands in a city zoned ((as of December 31, 2014,)) for an industrial or manufacturing use consistent with the city's comprehensive plan where the lands are designated for industry.

(7) "Owner" means the property owner of record.

(8) "Targeted area" means an area of undeveloped lands zoned for industrial and manufacturing uses in the city that is located within or contiguous to an innovation partnership zone, foreign trade zone, or EB-5 regional center, and designated for possible exemption under the provisions of this chapter.

(9) "Undeveloped or underutilized" means that there are no existing building improvements on the portions of the property targeted for new or expanded industrial or manufacturing uses.

**Sec. 2.** RCW 82.04.294 and 2017 3rd sp.s. c 37 s 403 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing solar energy systems using photovoltaic modules or stirling converters, or of manufacturing solar grade silicon, silicon solar wafers, silicon solar cells, thin film solar devices, or compound semiconductor solar wafers to be used exclusively in components of such systems; as to such persons the amount of tax with respect to such business is, in the case of manufacturers,

equal to the value of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) Upon every person engaging within this state in the business of making sales at wholesale of solar energy systems using photovoltaic modules or stirling converters, or of solar grade silicon, silicon solar wafers, silicon solar cells, thin film solar devices, or compound semiconductor solar wafers to be used exclusively in components of such systems, manufactured by that person; as to such persons the amount of tax with respect to such business is equal to the gross proceeds of sales of the solar energy systems using photovoltaic modules or stirling converters, or of the solar grade silicon to be used exclusively in components of such systems, multiplied by the rate of 0.275 percent.

(3) Silicon solar wafers, silicon solar cells, thin film solar devices, solar grade silicon, or compound semiconductor solar wafers are "semiconductor materials" for the purposes of RCW 82.08.9651 and 82.12.9651.

(4) The definitions in this subsection apply throughout this section.

(a) "Compound semiconductor solar wafers" means a semiconductor solar wafer composed of elements from two or more different groups of the periodic table.

(b) "Module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

(c) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

(d) "Silicon solar cells" means a photovoltaic cell manufactured from a silicon solar wafer.

(e) "Silicon solar wafers" means a silicon wafer manufactured for solar conversion purposes.

(f) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

(g) "Solar grade silicon" means high-purity silicon used exclusively in components of solar energy systems using photovoltaic modules to capture direct sunlight. "Solar grade silicon" does not include silicon used in semiconductors.

(h) "Stirling converter" means a device that produces electricity by converting heat from a solar source utilizing a stirling engine.

(i) "Thin film solar devices" means a nonparticipating substrate on which various semiconducting materials are deposited to produce a photovoltaic cell that is used to generate electricity.

(5) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(6) This section expires July 1, (~~2027~~) 2032.

**NEW SECTION. Sec. 3.** (1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter . . . , Laws of 2022 (section 2 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 this tax preference as one intended to improve industry competitiveness and to create and retain jobs as indicated in RCW 82.32.808(2) (b) and (c).

(3) It is the legislature's specific public policy objective to maintain and grow jobs in the solar silicon industry. Trade disputes currently threaten employment in this sector. It is the legislature's intent to extend by five years the preferential tax rates for manufacturers and wholesalers of specific solar energy material and parts in order to maintain and grow jobs in the solar silicon industry.

(4) If a review finds that the number of people employed by the solar silicon industry in Washington is the same or more than in 2019, and that at least 60 percent of employees earn \$60,000 a year or more, then 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 department of revenue's annual survey data.

NEW SECTION. **Sec. 4.** This act takes effect July 1, 2022.

Passed by the Senate March 4, 2022.

Passed by the House March 9, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 173

[Senate Bill 5854]

### HIGHER EDUCATION FACULTY—ETHICS

AN ACT Relating to ethical performance of faculty duties; amending RCW 42.52.200, 42.52.220, and 42.52.360; and reenacting and amending RCW 42.52.010.

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

**Sec. 1.** RCW 42.52.010 and 2011 c 60 s 28 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.

(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.

(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 days of receipt or donated to a charitable organization within thirty days of receipt;

(h) Campaign contributions reported under chapter 42.17A 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.

~~((13))~~ (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.

~~((14))~~ (15) "Person" means any individual, partnership, association, corporation, firm, institution, or other entity, whether or not operated for profit.

~~((15))~~ (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.

~~((16))~~ (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.

~~((17))~~ (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.

~~((18))~~ (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.

~~((19))~~ (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.

~~((20))~~ (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.

~~((21))~~ (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.

~~((22))~~ (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~~((including without limitation, the Spokane intercollegiate research and technology institute and the Washington technology center))~~.

~~((23))~~ (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. 2.** RCW 42.52.200 and 2005 c 106 s 3 are each amended to read as follows:

(1) Each agency may adopt rules consistent with law, for use within the agency to protect against violations of this chapter.

(2) Each agency proposing to adopt rules under this section shall forward the rules to the appropriate ethics board before they may take effect. The board may submit comments to the agency regarding the proposed rules.

(3) This section applies to ~~((universities))~~ institutions of higher education only to the extent their activities are not subject to RCW 42.52.220.

**Sec. 3.** RCW 42.52.220 and 2005 c 106 s 4 are each amended to read as follows:

(1) Consistent with the state policy to encourage basic and applied scientific research by the state's research universities as stated in RCW 28B.140.005, and consistent with the expectations of university faculty to produce, publish, and disseminate research and scholarship, each university and the state board for community and technical colleges may develop, adopt, and implement one or more written administrative processes that shall~~((upon approval by the governor,))~~ apply in place of the obligations imposed on ~~((universities))~~

institutions of higher education, faculty, and university research employees under RCW 42.52.030, 42.52.040, 42.52.080, 42.52.110, 42.52.120, 42.52.130, 42.52.140, 42.52.150, and 42.52.160. The ((universities)) institutions of higher education shall coordinate on the development of administrative processes to ensure the processes are comparable. Each policy shall apply upon approval by boards of trustees or regents for the state universities, regional universities, and The Evergreen State College, or by the state board for community and technical colleges. Each board of trustees or regents and the state board for community and technical colleges must provide the executive ethics board with a copy of each institution's policy upon approval. A faculty member or university research employee in compliance with the processes authorized in this section shall be deemed to be in compliance with RCW 42.52.030, 42.52.040, 42.52.080, 42.52.110, 42.52.120, 42.52.130, 42.52.140, 42.52.150, and 42.52.160.

(2) The executive ethics board shall enforce activity subject to the written approval processes under this section, as provided in RCW 42.52.360.

**Sec. 4.** RCW 42.52.360 and 2013 c 190 s 3 are each amended to read as follows:

(1) The executive ethics board shall enforce this chapter and rules adopted under it with respect to statewide elected officers and all other officers and employees in the executive branch, boards and commissions, and institutions of higher education.

(2) The executive ethics board shall enforce this chapter with regard to the activities of ((university)) institution of higher education faculty and research employees as provided in this subsection.

(a) With respect to compliance with RCW 42.52.030, 42.52.110, 42.52.130, 42.52.140, and 42.52.150, the administrative process for university research employees shall be consistent with and adhere to no less than the current standards in regulations of the United States public health service and the office of the secretary of the department of health and human services in Title 42 C.F.R. Part 50, Subpart F relating to promotion of objectivity in research.

(b) With respect to compliance with RCW 42.52.040, 42.52.080, and 42.52.120, the administrative process shall include a comprehensive system for the disclosure, review, and approval of outside work activities by ((university)) institution of higher education faculty and research employees while assuring that such employees are fulfilling their employment obligations to the ((university)) institution of higher education.

(c) With respect to compliance with RCW 42.52.160, the administrative process shall include ((a)) reasonable determinations by the ((university)) institution of higher education of ((acceptable)):

(i) Acceptable private uses having de minimis costs to the ((university)) institution of higher education and a method for establishing fair and reasonable reimbursement charges for private uses the costs of which are in excess of de minimis; and

(ii) Acceptable private uses having more than de minimis costs to the institution of higher education, but which are performed as part of the faculty or research employee's duties or job requirements.

(3) The executive ethics board shall:

(a) Develop educational materials and training;



(b) Adopt rules and policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW 42.52.180 and where otherwise authorized under chapter 154, Laws of 1994;

(c) Issue advisory opinions;

(d) Investigate, hear, and determine complaints by any person or on its own motion;

(e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend to the appropriate authorities suspension, removal from position, prosecution, or other appropriate remedy; and

(g) Establish criteria regarding the levels of civil penalties appropriate for violations of this chapter and rules adopted under it.

(4) The board may:

(a) Issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(5) The board shall not delegate to the board's executive director its authority to issue advisories, advisory letters, or opinions.

(6) Except as provided in RCW 42.52.220, the executive ethics board may review and approve agency policies as provided for in this chapter.

(7) This section does not apply to state officers and state employees of the judicial branch.

Passed by the Senate February 10, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 174

[Senate Bill 5855]

### USE OF CAMPAIGN FUNDS—REIMBURSEMENT FOR OUT-OF-POCKET EXPENSES— CHILD CARE

AN ACT Relating to the use of campaign funds to reimburse expenses for child care and other caregiving services; and amending RCW 42.17A.445.

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

**Sec. 1.** RCW 42.17A.445 and 2010 c 204 s 608 are each amended to read as follows:

Contributions received and reported in accordance with RCW 42.17A.220 through 42.17A.240 and 42.17A.425 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.

(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.

(3) Repayment of loans made by the individual to political committees shall be reported pursuant to RCW 42.17A.240. 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.

Passed by the Senate March 7, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

## CHAPTER 175

[Senate Bill 5868]

### RURAL COUNTIES PUBLIC FACILITIES SALES AND USE TAX—USE FOR AFFORDABLE WORKFORCE HOUSING

AN ACT Relating to expanding the use of the rural counties public facilities sales and use tax to include affordable workforce housing; and amending RCW 82.14.370.

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

**Sec. 1.** RCW 82.14.370 and 2012 c 225 s 4 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 ~~((sixty))~~ 60 and ~~((one hundred))~~ 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 public facilities serving economic development purposes in rural counties and

finance personnel in economic development offices. 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) 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 meets the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection. Each county collecting money under this section must report, as follows, to the office of the state auditor, within ~~((one hundred fifty))~~ 150 days after the close of each fiscal year: (i) A list of new projects begun during the fiscal year, showing that the county has used the funds for those projects consistent with the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection; and (ii) expenditures during the fiscal year on projects begun in a previous 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) The definitions in this section apply throughout this section.

(i) "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, ~~((and))~~ port facilities in the state of Washington, or affordable workforce housing infrastructure or facilities.

(ii) "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) "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) "Affordable workforce housing infrastructure or facilities" means housing infrastructure or facilities that a qualifying provider uses for housing for a single person, family, 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) "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) 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 (~~(twenty-five)~~) 25 years after the date that a tax is first imposed under this section.

(b) For counties imposing the tax at the rate of 0.09 percent before August 1, 2009, the tax expires on the date that is (~~(twenty-five)~~) 25 years after the date that the 0.09 percent tax rate was first imposed by that county.

(5) For purposes of this section, "rural county" means a county with a population density of less 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.

Passed by the Senate March 7, 2022.

Passed by the House March 2, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 176

[Senate Bill 5929]

### LEGISLATIVE-EXECUTIVE WORKFIRST POVERTY REDUCTION OVERSIGHT TASK FORCE—MEMBERSHIP

AN ACT Relating to changing the membership of the legislative-executive WorkFirst poverty reduction oversight task force; and amending RCW 74.08A.505 and 74.08A.510.

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

**Sec. 1.** RCW 74.08A.505 and 2018 c 126 s 3 are each amended to read as follows:

(1)(a) A legislative-executive WorkFirst poverty reduction oversight task force is established, with voting members as provided in this subsection. Task force membership shall include diverse, statewide representation and its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(i) The president of the senate shall appoint two members from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives.

(iii) The governor shall appoint eight members representing the following agencies: The department of social and health services; the department of children, youth, and families; the department of commerce; the employment security department; the office of the superintendent of public instruction; the department of health; the department of corrections; and the state board for community and technical colleges.

(b) The task force shall choose its cochairs, one from among the legislative members and one from among the executive branch members. The secretary of the department of social and health services shall convene the initial meeting of the task force.

(2) The governor shall appoint (~~(five)~~) eight nonvoting members to the task force representing the:

- (a) (~~(Commission)~~) State commission on African American affairs;
- (b) State commission on Hispanic affairs;
- (c) State commission on Asian Pacific American affairs;
- (d) Governor's office of Indian affairs; (~~and~~)
- (e) Women's commission;
- (f) LGBTQ commission;
- (g) Office of equity; and
- (h) Office of financial management.

(3) The cochairs of the intergenerational poverty advisory committee created in RCW 74.08A.510 shall serve as nonvoting members of the task force.

(4) The task force shall:

(a) Oversee the partner agencies' operation of the WorkFirst program and temporary assistance for needy families program to ensure that the programs are achieving desired outcomes for their clients;

(b) Determine evidence-based outcome measures for the WorkFirst program, including measures related to equitably serving the needs of historically underrepresented populations, such as English language learners, immigrants, refugees, and other diverse communities;

(c) Develop accountability measures for WorkFirst recipients and the state agencies responsible for their progress toward self-sufficiency;

(d) Collaborate with the advisory committee created in RCW 74.08A.510 to develop and monitor strategies to prevent and address adverse childhood experiences and reduce intergenerational poverty;

(e) Seek input on best practices for poverty reduction from service providers, community-based organizations, legislators, state agencies, stakeholders, the business community, and subject matter experts;

(f) Collaborate with partner agencies and the advisory committee to analyze available data and information regarding intergenerational poverty in the state, with a primary focus on data and information regarding children who are at risk of continuing the cycle of poverty and welfare dependency unless outside intervention occurs; and

(g) Recommend policy actions to the governor and the legislature to effectively reduce intergenerational poverty and promote and encourage self-sufficiency.

(5)(a) The task force shall direct the department of social and health services to develop a five-year plan to reduce intergenerational poverty and promote self-sufficiency, subject to oversight and approval by the task force. Upon approval by the task force, the department must submit the plan to the governor and the appropriate committees of the legislature by December 1, 2019.

(b) The task force shall review the five-year plan by December 1, 2024, and shall direct the department to update the plan as determined necessary by the task force.

(6) The partner agencies must provide the task force with regular reports on:

(a) The partner agencies' progress toward meeting the outcome and performance measures established under this section;

(b) Caseload trends and program expenditures, and the impact of those trends and expenditures on client services, including services to historically underrepresented populations; and

(c) The characteristics of families who have been unsuccessful on the temporary assistance for needy families program and have lost their benefits either through sanction or the sixty-month time limit.

(7) Staff support for the task force, including administration of task force meetings, must be provided by the state agency members of the task force. Additional staff support for legislative members of the task force must be provided by senate committee services and the house of representatives office of program research.

(8) During (~~(its [their])~~) their tenure, the state agency members of the task force shall respond in a timely manner to data requests from the cochairs.

(9) Legislative members of the task force are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

**Sec. 2.** RCW 74.08A.510 and 2018 c 126 s 4 are each amended to read as follows:

(1) To assist the task force established in RCW 74.08A.505, there is created the intergenerational poverty advisory committee.

(2) The advisory committee must include diverse, statewide representation from public, nonprofit, and for-profit entities. The committee membership must reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(3) Members of the advisory committee are appointed by the secretary, with the approval of the task force.

(4) The advisory committee must include representatives from:

(a) Advocacy groups that focus on childhood poverty issues;

(b) Advocacy groups that focus on education and early childhood education issues;

(c) Academic experts in childhood poverty, education, or early childhood education issues;

(d) Faith-based organizations that address childhood poverty, education, or early childhood education issues;

(e) Tribal governments;

(f) Families impacted by poverty;

(g) Local government representatives that address childhood poverty or education issues;

(h) The business community;

(i) A group representing accredited financial counselors;

(j) A subject matter expert in infant mental health;

~~((f))~~ (k) The department of children, youth, and families; and

~~((k))~~ (l) The department.

(5) Each member of the advisory committee is appointed for a four-year term unless a member is appointed to complete an unexpired term. The secretary may adjust the length of term at the time of appointment or reappointment so that approximately one-half of the advisory committee is appointed every two years.

(6) The secretary may remove an advisory committee member:

(a) If the member is unable or unwilling to carry out the member's assigned responsibilities; or

(b) For good cause.

(7) If a vacancy occurs in the advisory committee membership for any reason, a replacement may be appointed for the unexpired term.

(8) The advisory committee shall choose cochaIRS from among its membership. The secretary shall convene the initial meeting of the advisory committee.

(9) A majority of the advisory committee constitutes a quorum of the advisory committee at any meeting and the action of the majority of members present is the action of the advisory committee.

(10) The advisory committee shall:

(a) Meet quarterly at the request of the task force cochaIRS or the cochaIRS of the advisory committee;

(b) Make recommendations to the task force on how the task force and the state can effectively address the needs of children affected by intergenerational poverty and achieve the purposes and duties of the task force as described in RCW 74.08A.505;

(c) Ensure that the advisory committee's recommendations to the task force are supported by verifiable data; and

(d) Gather input from diverse communities about the impact of intergenerational poverty on outcomes such as education, health care, employment, involvement in the child welfare system, and other related areas.

(11) The department shall provide staff support to the advisory committee and shall endeavor to accommodate the participation needs of its members. Accommodations may include considering the location and time of committee meetings, making options available for remote participation by members, and convening meetings of the committee in locations with proximity to available child care whenever feasible.

(12) Members of the advisory committee may receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Passed by the Senate March 7, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 24, 2022.

Filed in Office of Secretary of State March 24, 2022.

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## CHAPTER 177

[Substitute Senate Bill 5722]

### BUILDINGS—ENERGY MANAGEMENT AND BENCHMARKING

AN ACT Relating to reducing greenhouse gas emissions in buildings; amending RCW 19.27A.200, 19.27A.220, 19.27A.230, and 19.27A.240; adding a new section to chapter 19.27A RCW; creating new sections; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** The legislature finds that in order to meet the statewide greenhouse gas emissions limits in RCW 70A.45.020, the state must require performance standards for existing buildings.

In order to have a comprehensive understanding of the need and potential for updating the state's building stock, including the "split incentive issue" in which tenants are responsible for energy costs and building owners are responsible for choices about energy systems and building maintenance, more robust benchmarking and reporting for building performance, operations, and maintenance is needed. While the state has adopted comprehensive reporting requirements for larger buildings, it currently lacks similar requirements for smaller buildings. It is the intent of the legislature to extend existing building benchmarking, energy management, and operations and maintenance planning requirements to smaller commercial and multifamily residential buildings in order to assess the needs and opportunities for job creation and incentives and environmental and public health improvements.

The legislature further finds that in order to meet the statewide greenhouse gas emissions limits in the energy sectors of the economy, more resources must be directed toward achieving decarbonization of building heating and cooling loads, while continuing to relieve energy burdens that exist in overburdened communities. These resources must include comprehensive customer support, outreach, and technical assistance. These efforts must include notifying building owners of requirements through communications campaigns, providing resources to aid in compliance, and delivering training to equip building owners, and the industry, to be successful.

**Sec. 2.** RCW 19.27A.200 and 2019 c 285 s 2 are each amended to read as follows:

The definitions in this section apply throughout RCW 19.27A.210, 19.27A.220, 19.27A.230, ~~(and)~~ 19.27A.240, and sections 3 and 4 of this act unless the context clearly requires otherwise.

(1) "Agricultural structure" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products, and that is not a place used by the public or a place of human habitation or employment where agricultural products are processed, treated, or packaged.

(2) "Baseline energy use intensity" means a building's ~~((weather normalized))~~ energy use intensity ~~((measured the previous year to making an application for an incentive under RCW 19.27A.220))~~ that is representative of energy use in a normal weather year.

(3)~~(a)~~ "Building owner" means an individual or entity possessing title to a building.

(b) In the event of a land lease, "building owner" means the entity possessing title to the building on leased land.

(4) "Building tenant" means a person or entity occupying or holding possession of a building or premises pursuant to a rental agreement.

(5) "Conditional compliance" means a temporary compliance method used by covered building owners that demonstrate the owner has implemented energy use reduction strategies required by the standard, but has not demonstrated full compliance with the energy use intensity target.

(6) "Consumer-owned utility" has the same meaning as defined in RCW 19.27A.140.

(7) "Covered ~~((commercial))~~ building" ~~((means a building where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds fifty thousand~~



~~gross square feet, excluding the parking garage area))~~ includes a tier 1 covered building and a tier 2 covered building.

(8) "Department" means the department of commerce.

(9) "Director" means the director of the department of commerce or the director's designee.

(10) "Electric utility" means a consumer-owned electric utility or an investor-owned electric utility.

(11) "Eligible building owner" means: (a) The owner of a covered ~~((commercial))~~ building required to comply with the standard established in RCW 19.27A.210; or (b) ~~((the owner of a multifamily residential building where the floor area exceeds fifty thousand gross square feet, excluding the parking garage area))~~ all eligible tier 2 covered building owners.

(12) "Energy" includes: Electricity, including electricity delivered through the electric grid and electricity generated at the building premises using solar or wind energy resources; natural gas, including natural gas derived from renewable sources, synthetic sources, and fossil fuel sources; district steam; district hot water; district chilled water; propane; fuel oil; wood; coal; or other fuels used to meet the energy loads of a building.

(13) "Energy use intensity" means a measurement that normalizes a building's site energy use relative to its size. A building's energy use intensity is calculated by dividing the total net energy consumed in one year by the gross floor area of the building, excluding the parking garage. "Energy use intensity" is reported as a value of thousand British thermal units per square foot per year.

(14) "Energy use intensity target" means the target for net energy use intensity of a covered ~~((commercial))~~ building ~~((that has been established for the purposes of complying with the standard established under RCW 19.27A.210)).~~

(15) "Gas company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receiver appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any gas plant within this state.

(16) "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(17)(a) "Gross floor area" means the total number of square feet measured between the exterior surfaces of the enclosing fixed walls of a building, including all supporting functions such as offices, lobbies, restrooms, equipment storage areas, mechanical rooms, break rooms, and elevator shafts.

(b) "Gross floor area" does not include outside bays or docks.

(18) "Investor-owned utility" means a ~~((company owned by investors, that meets one of the definitions of RCW 80.04.010, and that is engaged in distributing electricity))~~ corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

(19) "Multifamily residential building" means a covered multifamily building containing sleeping units or more than ~~((two))~~ five dwelling units where occupants are primarily permanent in nature.

(20) "Net energy use" means the sum of metered and bulk fuel energy entering the building, minus the sum of metered energy leaving the building or

campus. Renewable energy produced on a campus that is not attached to a covered building may be included.

(21) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than (~~twenty five thousand~~) 25,000 customers in the state of Washington.

(22) "Savings-to-investment ratio" means the ratio of the total present value savings to the total present value costs of a bundle of an energy or water conservation measure estimated over the projected useful life of each measure. The numerator of the ratio is the present value of net savings in energy or water and nonfuel or nonwater operation and maintenance costs attributable to the proposed energy or water conservation measure. The denominator of the ratio is the present value of the net increase in investment and replacement costs less salvage value attributable to the proposed energy or water conservation measure.

(23) "Standard" means the state energy performance standard for covered (~~commercial~~) buildings established under RCW 19.27A.210.

(24) "Thermal energy company" has the same meaning as defined in RCW 80.04.550.

(25) "Weather normalized" means a method for modifying the measured building energy use in a specific weather year to energy use under normal weather conditions.

(26) "Tier 1 covered building" means a building where the sum of nonresidential, hotel, motel, and dormitory floor areas exceed 50,000 gross square feet, excluding the parking garage area.

(27) "Tier 2 covered building" means a building where the sum of multifamily residential, nonresidential, hotel, motel, and dormitory floor areas exceeds 20,000 gross square feet, but does not exceed 50,000 gross square feet, excluding the parking garage area. Tier 2 covered buildings also include multifamily residential buildings where floor areas are equal to or exceed 50,000 gross square feet, excluding the parking garage area.

NEW SECTION. Sec. 3. A new section is added to chapter 19.27A RCW to read as follows:

(1)(a) By December 1, 2023, the department must adopt by rule a state energy management and benchmarking requirement for tier 2 covered buildings. The department shall include a small business economic impact statement pursuant to chapter 19.85 RCW as part of the rule making.

(b) In establishing the requirements under (a) of this subsection, the department must adopt requirements for building owner implementation consistent with the standard established pursuant to RCW 19.27A.210(1) and limited to energy management planning, operations and maintenance planning, and energy use analysis through benchmarking and associated reporting and administrative procedures. Administrative procedures must include exemptions for financial hardship and an appeals process for administrative determinations, including penalties imposed by the department.

(c) The department must provide a customer support program to building owners including, but not limited to, outreach and informational materials that connect tier 2 covered building owners to utility resources, periodic training, phone and email support, and other technical assistance. The customer support program must include enhanced technical support, such as benchmarking assistance and assistance in developing energy management and operations and

maintenance plans, for tier 2 covered buildings whose owners typically do not employ dedicated building managers including, but not limited to, multifamily housing, child care facilities, and houses of worship. The department shall prioritize underresourced buildings with a high energy use per square foot, buildings in rural communities, buildings whose tenants are primarily small businesses, and buildings located in high-risk communities according to the department of health's environmental health disparities map.

(d)(i) The department may adopt rules related to the imposition of an administrative penalty not to exceed 30 cents per square foot upon a tier 2 covered building owner for failing to submit documentation demonstrating compliance with the requirements of this subsection.

(ii) Administrative penalties collected under this section must be deposited into the low-income weatherization and structural rehabilitation assistance account created in RCW 70A.35.030 and reinvested into the program, where feasible, to support compliance with the standard.

(2) By July 1, 2025, the department must provide the owners of tier 2 covered buildings with notification of the requirements the department has adopted pursuant to this section that apply to tier 2 covered buildings.

(3) The owner of a tier 2 covered building must report the building owner's compliance with the requirements adopted by the department to the department in accordance with the schedule established under subsection (4) of this section and every five years thereafter. For each reporting date, the building owner must submit documentation to demonstrate that the building owner has developed and implemented the procedures adopted by the department by rule, limited to energy management planning, operations and maintenance planning, and energy use analysis through benchmarking.

(4) By July 1, 2027, tier 2 covered building owners must submit reports to the department as required by the rules adopted in subsection (1) of this section.

(5)(a) By July 1, 2029, the department must evaluate benchmarking data to determine energy use and greenhouse gas emissions averages by tier 2 covered building type.

(b) The department must submit a report to the legislature and the governor by October 1, 2029, with recommendations for cost-effective building performance standards for tier 2 covered buildings. The report must contain information on estimated costs to building owners to implement the performance standards and anticipated implementation challenges.

(c)(i) By December 31, 2030, the department must adopt rules for performance standards for tier 2 covered buildings.

(ii) In adopting these performance standards, the department must consider the age of the building in setting energy use intensity targets.

(iii) The department may adopt performance standards for multifamily residential buildings on a longer timeline schedule than for other tier 2 covered buildings.

(iv) The rules may not take effect before the end of the 2031 regular legislative session.

(v) The department must include a small business economic impact statement pursuant to chapter 19.85 RCW as part of the rule making.

**Sec. 4.** RCW 19.27A.220 and 2021 c 315 s 18 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) ~~((An eligible))~~ A covered building owner may receive an incentive payment in the amounts specified in subsection ~~((6))~~(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 ~~((fifty thousand))~~ 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 ~~((fifteen))~~ 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) An eligible)~~ 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:

~~((i))~~ (a) For a building with more than ~~((two hundred twenty thousand))~~ 220,000 gross square feet, beginning July 1, 2021, through June 1, 2025;

~~((ii))~~ (b) For a building with more than ~~((ninety thousand))~~ 90,000 gross square feet but less than ~~((two hundred twenty thousand and one))~~ 220,001 gross square feet, beginning July 1, 2021, through June 1, 2026; and

~~((iii))~~ (c) For a building with more than ~~((fifty thousand))~~ 50,000 gross square feet but less than ~~((ninety thousand and one))~~ 90,001 gross square feet, beginning July 1, 2021, through June 1, 2027.

~~((b))~~ (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 section 3 of this act 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.

((6) An eligible 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 ((eighty five)) 85 cents per gross square foot of floor area, excluding parking, unconditioned, or semiconditioned spaces.

((7)) (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 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 ((6)) (8) of this section are subject to the limitations and requirements of this section, including any rules or procedures implementing this section.

((8)) (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.

((9)) (11) The department must provide an administrative process for an eligible building owner to appeal a determination of an incentive eligibility or amount.

((40)) (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.

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

**Sec. 5.** RCW 19.27A.230 and 2019 c 285 s 5 are each amended to read as follows:

(1) The department may not issue a certification for ((a)) a tier 1 incentive application under RCW 19.27A.220(8)(a) if doing so is likely to result in total incentive payments under RCW 19.27A.220(8)(a) in excess of ((seventy five million dollars)) \$75,000,000.

(2) The department may not issue certification for a tier 2 incentive application under RCW 19.27A.220(8)(b) if doing so is likely to result in total incentive payments under RCW 19.27A.220(8)(b) in excess of \$150,000,000.

**Sec. 6.** RCW 19.27A.240 and 2019 c 285 s 6 are each amended to read as follows:

(1)(a) Each qualifying utility must administer incentive payments for the state energy performance standard early adoption incentive program established in RCW 19.27A.220 on behalf of its customers who are eligible building owners of covered commercial buildings ~~((or))~~, multifamily residential buildings, or other tier 2 covered buildings consistent with the requirements of this section. Any thermal energy company, electric utility, or gas company not otherwise required to administer incentive payments may voluntarily participate by providing notice to the department in a form and manner prescribed by the department.

(b) Nothing in this subsection (1) requires a qualifying utility to administer incentive payments for the state energy performance standard early adoption incentive program established in RCW 19.27A.220 for which the qualifying utility is not allowed a credit against taxes due under this chapter, as described in RCW 82.16.185.

(2) An entity that administers the payments for the incentive program under this section must administer the program in a manner that is consistent with the standard established and any rules adopted by the department under RCW 19.27A.210 ~~((and))~~, 19.27A.220, and section 3 of this act.

(3) Upon receiving notification from the department that a building owner has qualified for an incentive payment, each entity that administers incentive payments under this section must make incentive payments to its customers who are eligible building owners of covered commercial buildings or multifamily residential buildings who qualify as provided under this section and at rates specified in RCW 19.27A.220~~((6))~~ (8). When a building is served by more than one entity administering incentive payments, incentive payments must be proportional to the energy use intensity reduction of the participating entities' fuel.

(4) The participation by an entity in the administration of incentive payments under this section does not relieve the entity of any obligation that may otherwise exist or be established to provide customer energy efficiency programs or incentives.

(5) An entity that administers the payments for the incentive program under this section is not liable for excess payments made in reliance on amounts reported by the department as due and payable as provided under RCW 19.27A.220, if such amounts are later found to be abnormal or inaccurate due to no fault of the business.

**NEW SECTION. Sec. 7.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2022, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 8, 2022.

Passed by the House March 3, 2022.

Approved by the Governor March 25, 2022.

Filed in Office of Secretary of State March 28, 2022.

## 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 2022 session (67th Legislature), chapters 1 through 177, 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 25th day of April, 2022.

A handwritten signature in black ink, appearing to read "Kathleen Buchli". The signature is written in a cursive style with a large initial "K".

Kathleen Buchli  
Code Reviser

