

2021

SESSION LAWS

OF THE

STATE OF WASHINGTON

2021 REGULAR SESSION
SIXTY-SEVENTH LEGISLATURE
Convened January 11, 2021. Adjourned April 25, 2021.



Published at Olympia by the Statute Law Committee under
Chapter 44.20 RCW.

Kathleen Buchli
Code Reviser

<http://www.leg.wa.gov/codereviser>

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 2021 regular session is July 25, 2021.
- (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 2021 laws may be found at the back of the final volume.

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
2021 SESSION			
262	E2SSB 5052	Health equity zones	2021
263	E2SSB 5071	Civil commitment—Transition teams—Less restrictive alternative treatment.	2023
264	SSB 5073	Involuntary commitment—Various provisions	2077
265	ESSB 5118	Juvenile rehabilitation—Reentry—Various provisions	2171
266	ESSB 5121	Graduated reentry program—Participation eligibility	2173
267	SSB 5157	Persons with behavioral disorders—Criminal justice system—Performance improvement	2177
268	ESSB 5178	Health care laws—Automatic waivers—State of emergency	2179
269	2SSB 5183	Nonfatal strangulation victims	2181
270	SSB 5185	Health care decisions—Informed consent	2183
271	ESSB 5193	Unemployment insurance—Claim adjudicators	2193
272	E2SSB 5194	Community and technical colleges—Various provisions	2196
273	2SSB 5195	Opioid overdose reversal medication—Prescribing.	2207
274	ESSB 5203	Generic prescription drugs—Partnership agreements	2216
275	E2SSB 5227	Higher education—Diversity, equity, inclusion, and antiracism training and assessments.	2218
276	ESSB 5229	Health care professionals—Health equity continuing education	2222
277	SSB 5236	Psychiatric hospitals—Certificates of need exemptions	2225
278	2SSB 5253	Pollinator health—Various provisions	2232
279	SSB 5273	Shoreline armoring—Replacement—Fish life impact.	2239
280	2SSB 5313	Health insurance—Gender affirming treatment.	2240
281	2SSB 5315	Captive insurance	2243
282	SSB 5318	Commercial fertilizer—Fees	2250
283	ESSB 5321	College bound scholarship—Eligibility.	2253
284	ESB 5330	Commercial whale watching licenses—Various provisions	2259
285	2SSB 5331	Early childhood court programs	2261
286	SSB 5361	Drug offenses—Resentencing criteria	2265
287	ESSB 5370	Mental health advance directives—Various provisions.	2266
288	SSB 5378	Real estate brokers and managing brokers—Continuing education	2300
289	SSB 5381	Fish passage project permits—Streamlined review and approval	2301
290	ESSB 5408	Homestead exemption—Various provisions	2305
291	ESSB 5432	Office of cybersecurity.	2309
292	ESSB 5478	Unemployment insurance—Forgiven benefits—Relief account	2315
293	2SSB 5383	Public utility districts—Retail telecommunications services—Unserved areas.	2322
294	PV ESHB 1336	Public entities—Retail telecommunications services.	2328
295	SHB 1016	Juneteenth—Legal holiday.	2340
296	PV E2SHB 1069	Local governments—Fiscal flexibility.	2343
297	SHB 1155	Emergency communication systems and facilities—Local sales and use tax—Interlocal agreements.	2377

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
298	2SHB	1168 Forest health and wildfires—Various provisions	2379
299	SHB	1193 Columbia river federal navigation channels—Shoreline management act exemption	2392
300	PV E2SHB	1287 Zero-emission vehicles—Preparedness	2393
301	E2SHB	1365 Public schools—Technology—Procurement and support . . .	2402
302	E2SHB	1477 National 988 system	2407
303	SHB	1532 Court filing fees—Judicial stabilization trust account surcharges	2439
304	PV SSB	5151 Foster care and child care licensing—Various provisions . .	2442
305	SB	5225 Direct appeals—Administrative procedure act and land use petition act	2485
306	PV ESSB	5235 Housing unit inventory—Removing limits	2490
307	SB	5299 High school graduation—Use of computer science credits . .	2494
308	SB	5345 Industrial waste coordination program	2499
309	E2SSB	5399 Universal health care commission	2504
310	PV ESSB	5405 Joint legislative audit and review committee—Racial equity analyses	2508
311	PV ESB	5476 Drug possession—State v. Blake decision	2510
312	PV 2SSB	5368 Growth management act—Rural economic development . . .	2543
313	E2SSB	5022 Recycling and waste and litter reduction—Various provisions	2548
314	E2SSB	5141 Environmental justice—Various provisions	2567
315	E2SHB	1050 Hydrofluorocarbons—Emissions reduction	2585
316	PV E2SSB	5126 Greenhouse gas emissions—Cap and invest program	2606
317	PV E3SHB	1091 Transportation fuel—Clean fuels program	2662
318	ESHB	1267 Office of independent investigations—Police use of force . .	2695
319	E2SHB	1089 Peace officers and law enforcement agencies— Compliance audits	2709
320	ESHB	1054 Peace officers—Tactics and equipment	2710
321	SSB	5066 Peace officers—Duty to intervene	2715
322	SHB	1088 Impeachment disclosures	2716
323	E2SSB	5051 Peace officers and corrections officers—State oversight and accountability	2717
324	E2SHB	1310 Law enforcement and correctional officers—Permissible uses of force	2745
325	ESSB	5263 Law enforcement—Personal injury and wrongful death civil actions—Defenses	2749
326	E2SSB	5259 Law enforcement—Use of force—Data collection	2749
327	ESSB	5353 Law enforcement—Community engagement—Grants	2754
328	ESHB	1140 Law enforcement contact with juveniles—Access to attorney	2757
329	SHB	1223 Uniform electronic recordation of custodial interrogations act	2765
330	ESB	5135 Unlawfully summoning a police officer	2771
331	ESSB	5084 General obligation bonds—Capital and operating budgets . .	2772
332	SHB	1080 Capital budget	2774

CHAPTER 262

[Engrossed Second Substitute Senate Bill 5052]

HEALTH EQUITY ZONES

AN ACT Relating to the creation of health equity zones; adding a new section to chapter 43.70 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. FINDINGS AND INTENT. (1) The legislature finds that people of color, Indian, people experiencing poverty, and immigrant populations experience significant health disparities compared to the general population, including more limited access to health care and poorer health outcomes. The legislature finds that these circumstances result in higher rates of morbidity and mortality for persons of color and immigrant populations than observed in the general population.

(2) Therefore, the legislature intends to create health equity zones to address significant health disparities identified by health outcome data. The state intends to work with community leaders within the health equity zones to share information and coordinate efforts with the goal of addressing the most urgent needs. Health equity zone partners shall develop, expand, and maintain positive relationships with communities of color, Indian communities, communities experiencing poverty, and immigrant communities within the zone to develop effective and sustainable programs to address health inequity.

NEW SECTION. Sec. 2. A new section is added to chapter 43.70 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department, in coordination with the governor's interagency council on health disparities, local health jurisdictions, and accountable communities of health, must share and review population health data, which may be related to chronic and infectious diseases, maternal birth complications, preterm births and other newborn health complications, and any other relevant health data, including hospital community health needs assessments, to identify, or allow communities to self-identify, potential health equity zones in the state and develop projects to meet the unique needs of each zone. The department must provide technical support to communities in the use of data to facilitate self-identification of health equity zones.

(2) Communities' uses of data must align with projects and outcomes to be measured in self-identified zones.

(3) The department must use the first 12 months following the effective date of this section to develop a plan and process to allow communities to implement health equity zone programs statewide. The department has authority to determine the number of health equity zones and projects based on available resources.

(4) Communities that self-identify zones or the department must notify relevant community organizations in the zones of the health equity zone designation and allow those organizations to identify projects to address the zone's most urgent needs related to health disparities. Community organizations may include, but are not limited to:

- (a) Community health clinics;
- (b) Local health providers;

- (c) Federally qualified health centers;
- (d) Health systems;
- (e) Local government;
- (f) Public school districts;
- (g) Recognized American Indian organizations and Indian health organizations;
- (h) Local health jurisdictions; and
- (i) Any other nonprofit organization working to address health disparities in the zone.

(5) Local organizations working within zones may form coalitions to identify the needs of the zone, design projects to address those needs, and develop an action plan to implement the projects. Local organizations may partner with state or national organizations outside the specific zone designation. Projects may include, but are not limited to:

- (a) Addressing health care provider access and health service delivery;
- (b) Improving information sharing and community trust in providers and services;
- (c) Conducting outreach and education efforts; and
- (d) Recommending systems and policy changes that will improve population health.

(6) The department must provide:

- (a) Support to the coalitions in identifying and applying for resources to support projects within the zones;
- (b) Technical assistance related to project management and developing health outcome and other measures to evaluate project success; and
- (c) Subject to availability, funding to implement projects.

(7) Subject to the availability of amounts appropriated for this specific purpose, by December 1, 2023, and every two years thereafter, the department must submit a report to the legislature detailing the projects implemented in each zone and the outcome measures, including year-over-year health data, to demonstrate project success.

(8) For the purposes of this section "health equity zone" or "zone" means a contiguous geographic area that demonstrates measurable and documented health disparities and poor health outcomes, which may include but are not limited to high rates of maternal complications, newborn health complications, and chronic and infectious disease, is populated by communities of color, Indian communities, communities experiencing poverty, or immigrant communities, and is small enough for targeted interventions to have a significant impact on health outcomes and health disparities. Documented health disparities must be documented or identified by the department or the centers for disease control and prevention.

Passed by the Senate April 20, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 263

[Engrossed Second Substitute Senate Bill 5071]

CIVIL COMMITMENT—TRANSITION TEAMS—LESS RESTRICTIVE ALTERNATIVE TREATMENT

AN ACT Relating to creating transition teams to assist specified persons under civil commitment; amending RCW 10.77.150, 71.05.320, 71.05.320, 10.77.060, 70.02.230, 70.02.240, 71.24.035, 10.77.010, 10.77.195, 71.05.740, 71.24.035, and 71.24.045; amending 2020 c 302 s 110 (uncodified); reenacting and amending RCW 71.05.020, 71.05.020, 71.05.020, and 71.05.020; adding a new section to chapter 10.77 RCW; adding a new section to chapter 71.24 RCW; creating new sections; providing effective dates; providing a contingent effective date; and providing expiration dates.

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

Sec. 1. RCW 10.77.150 and 2010 c 263 s 5 are each amended to read as follows:

(1) Persons examined pursuant to RCW 10.77.140 may make application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered the person's commitment the person's application for conditional release as well as the secretary's recommendations concerning the application and any proposed terms and conditions upon which the secretary reasonably believes the person can be conditionally released. Conditional release may also contemplate partial release for work, training, or educational purposes.

(2) In instances in which persons examined pursuant to RCW 10.77.140 have not made application to the secretary for conditional release, but the secretary, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, reasonably believes the person may be conditionally released, the secretary may submit a recommendation for release to the court of the county that ordered the person's commitment. The secretary's recommendation must include any proposed terms and conditions upon which the secretary reasonably believes the person may be conditionally released. Conditional release may also include partial release for work, training, or educational purposes. Notice of the secretary's recommendation under this subsection must be provided to the person for whom the secretary has made the recommendation for release and to his or her attorney.

(3)(a) The court of the county which ordered the person's commitment, upon receipt of an application or recommendation for conditional release with the secretary's recommendation for conditional release terms and conditions, shall within thirty days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary.

(b) The prosecuting attorney shall represent the state at such hearings and shall have the right to have the (~~patient~~) person examined by an expert or professional person of the prosecuting attorney's choice. If the committed person is indigent, and he or she so requests, the court shall appoint a qualified expert or professional person to examine the person on his or her behalf.

(c) The issue to be determined at such a hearing is whether or not the person may be released conditionally to less restrictive alternative treatment under the supervision of a multidisciplinary transition team under conditions imposed by the court, including access to services under section 4 of this act without

substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security.

~~(d) ((The court, after the hearing, shall rule on the secretary's recommendations, and if it disapproves of conditional release, may do so))~~ In cases that come before the court under subsection (1) or (2) of this section, the court may deny conditional release to a less restrictive alternative only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary.

(4) If the order of conditional release ((includes a)) provides for the conditional release of the person to a less restrictive alternative, including residential treatment or treatment in the community, the conditional release order must also include:

(a) A requirement for the committed person to ((report to a)) be supervised by a multidisciplinary transition team, including a specially trained community corrections officer, ((the order shall also specify that the conditionally released person shall be under the supervision of the secretary of corrections or such person as the secretary of corrections may designate and shall follow explicitly the instructions of the secretary of corrections including)) a representative of the department of social and health services, and a representative of the community behavioral health agency providing treatment to the person under section 4 of this act.

(i) The court may omit appointment of the representative of the community behavioral health agency if the conditional release order does not require participation in behavioral health treatment;

(ii) The court may omit the appointment of a community corrections officer if it makes a special finding that the appointment of a community corrections officer would not facilitate the success of the person, or the safety of the person and the community;

(b) A requirement for the person to comply with conditions of supervision established by the court which shall include at a minimum reporting as directed to a ((community corrections officer)) designated member of the transition team, remaining within prescribed geographical boundaries, and notifying the ((community corrections officer)) transition team prior to making any change in the ((offender's)) person's address or employment. If the ((order of conditional release includes a requirement for the committed person to report to a community corrections officer, the community corrections officer shall notify the secretary or the secretary's designee, if the)) person is not in compliance with the court-ordered conditions of release((-)), the community corrections officer or another designated transition team member shall notify the secretary or the secretary's designee; and

~~((4))~~ (c) If the court ((determines that receiving regular or periodic medication or other medical treatment shall be a condition of the committed person's release, then the court shall require him or her to report to a physician or other medical or mental health practitioner for the medication or treatment. In addition to submitting any report required by RCW 10.77.160, the physician or other medical or mental health practitioner shall immediately upon the released

~~person's failure to appear for the)) requires participation in behavioral health treatment, the name of the licensed or certified behavioral health agency responsible for identifying the services the person will receive under section 4 of this act, and a requirement that the person cooperate with the services planned by the licensed or certified behavioral health agency. The licensed or certified behavioral health agency must comply with the reporting requirements of RCW 10.77.160, and must immediately report to the court, prosecutor, and defense counsel any substantial withdrawal or disengagement from medication or treatment, or ((upon a) any change in the person's mental health condition that renders ((the patient)) him or her a potential risk to the public ((report to the court, to the prosecuting attorney of the county in which the released person was committed, to the secretary, and to the supervising community corrections officer)).~~

(5) The role of the transition team appointed under subsection (4) of this section shall be to facilitate the success of the person on the conditional release order by monitoring the person's progress in treatment, compliance with court-ordered conditions, and to problem solve around extra support the person may need or circumstances that may arise that threaten the safety of the person or the community. The transition team may develop a monitoring plan that may be carried out by any member of the team. The transition team shall meet according to a schedule developed by the team, and shall communicate as needed if issues arise that require the immediate attention of the team.

(6) The department of corrections shall collaborate with the department to develop specialized training for community corrections officers under this section. The lack of a trained community corrections officer must not be the cause of delay to entry of a conditional release order. Another community corrections officer may be appointed if no specially trained officer is available.

(7) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial, or sooner with the support of the department.

(8) A person examined under RCW 10.77.140 or the department may make a motion for limited conditional release under this section, on the grounds that there is insufficient evidence that the person may be released conditionally to less restrictive alternative treatment under subsection (3)(c) of this section, but the person would benefit from the opportunity to exercise increased privileges while remaining under the custody and supervision of the department and with the supervision of the department these increased privileges can be exercised without substantial danger to other persons or substantial likelihood of committing criminal acts jeopardizing public safety or security. The department may respond to a person's application for conditional release by instead supporting limited conditional release.

Sec. 2. RCW 71.05.320 and 2020 c 302 s 45 are each amended to read as follows:

(1)(a) Subject to (b) of this subsection, if the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day

treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment.

(b) If the order for inpatient treatment is based on a substance use disorder, treatment must take place at an approved substance use disorder treatment program. The court may only enter an order for commitment based on a substance use disorder if there is an available approved substance use disorder treatment program with adequate space for the person.

(c) If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment to the custody of the department of social and health services or to a facility certified for one hundred eighty-day treatment by the department or under RCW 71.05.745.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court has made an affirmative special finding under RCW 71.05.280(3)(b), the court shall appoint a multidisciplinary transition team as provided in subsection (6)(a)(i) of this section. If the court or jury finds that the grounds set forth in RCW 71.05.280(5) have been proven, and provide the only basis for commitment, the court must enter an order for less restrictive alternative treatment for up to ninety days from the date of judgment and may not order inpatient treatment.

(3) An order for less restrictive alternative treatment entered under subsection (2) of this section must name the behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

(4) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated crisis responder, files a new petition for involuntary treatment on the grounds that the committed person:

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of a behavioral health disorder or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of a behavioral health disorder or developmental disability, a likelihood of serious harm; or

(c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result of a behavioral health disorder or developmental disability continues to present a substantial likelihood of repeating acts similar to the charged criminal behavior,

when considering the person's life history, progress in treatment, and the public safety.

(ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty-day period whenever the petition presents prima facie evidence that the person continues to suffer from a behavioral health disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the behavioral health disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior. The initial or additional commitment period may include transfer to a specialized program of intensive support and treatment, which may be initiated prior to or after discharge from the state hospital; or

(d) Continues to be gravely disabled; or

(e) Is in need of assisted outpatient behavioral health treatment.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to prove such conduct again.

If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(5) A new petition for involuntary treatment filed under subsection (4) of this section shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

(6)(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, subject to subsection (1)(b) of this section, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment, except as provided in subsection (7) of this section. If the court's order is based solely on the grounds identified in subsection (4)(e) of this section, the court may enter an order for less restrictive alternative treatment not to exceed one hundred eighty days from the date of judgment, and may not enter an order for inpatient treatment. An order for less restrictive alternative treatment must name the behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

(i) In cases where the court has ordered less restrictive alternative treatment and has previously made an affirmative special finding under RCW 71.05.280(3)(b), the court shall appoint a multidisciplinary transition team to supervise and assist the person on the order for less restrictive treatment, which shall include a representative of the community behavioral health agency providing treatment under RCW 71.05.585, and a specially trained supervising community corrections officer. The court may omit the appointment of a community corrections officer if it makes a special finding that the appointment

of a community corrections officer would not facilitate the success of the person, or the safety of the person and the community under (a)(ii) of this subsection.

(ii) The role of the transition team shall be to facilitate the success of the person on the less restrictive alternative order by monitoring the person's progress in treatment, compliance with court-ordered conditions, and to problem solve around extra support the person may need or circumstances which may arise that threaten the safety of the person or the community. The transition team may develop a monitoring plan which may be carried out by any member of the team. The transition team shall meet according to a schedule developed by the team, and shall communicate as needed if issues arise that require the immediate attention of the team.

(iii) The department of corrections shall collaborate with the department to develop specialized training for community corrections officers under this section. The lack of a trained community corrections officer must not be the cause of delay to entry of a less restrictive alternative order.

(b) At the end of the one hundred eighty-day period of commitment, or one-year period of commitment if subsection (7) of this section applies, the committed person shall be released unless a petition for an additional one hundred eighty-day period of continued treatment is filed and heard in the same manner as provided in this section. Successive one hundred eighty-day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty-day commitment.

(7) An order for less restrictive treatment entered under subsection (6) of this section may be for up to one year when the person's previous commitment term was for intensive inpatient treatment in a state hospital.

(8) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length except as provided in subsection (7) of this section.

Sec. 3. RCW 71.05.320 and 2020 c 302 s 46 are each amended to read as follows:

(1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment.

If the order for inpatient treatment is based on a substance use disorder, treatment must take place at an approved substance use disorder treatment program. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment to the custody of the department of social and health services or to a facility certified for one hundred eighty-day treatment by the department or under RCW 71.05.745.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department of social and health services or to a facility certified

for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court has made an affirmative special finding under RCW 71.05.280(3)(b), the court shall appoint a multidisciplinary transition team as provided in subsection (6)(a)(i) of this section. If the court or jury finds that the grounds set forth in RCW 71.05.280(5) have been proven, and provide the only basis for commitment, the court must enter an order for less restrictive alternative treatment for up to ninety days from the date of judgment and may not order inpatient treatment.

(3) An order for less restrictive alternative treatment entered under subsection (2) of this section must name the behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

(4) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated crisis responder, files a new petition for involuntary treatment on the grounds that the committed person:

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of a behavioral health disorder or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of a behavioral health disorder or developmental disability, a likelihood of serious harm; or

(c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result of a behavioral health disorder or developmental disability continues to present a substantial likelihood of repeating acts similar to the charged criminal behavior, when considering the person's life history, progress in treatment, and the public safety.

(ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty-day period whenever the petition presents prima facie evidence that the person continues to suffer from a behavioral health disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the behavioral health disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior. The initial or additional commitment period may include transfer to a specialized program of intensive support and treatment, which may be initiated prior to or after discharge from the state hospital; or

(d) Continues to be gravely disabled; or

(e) Is in need of assisted outpatient behavioral health treatment.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to prove such conduct again.

If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(5) A new petition for involuntary treatment filed under subsection (4) of this section shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

(6)(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment, except as provided in subsection (7) of this section. If the court's order is based solely on the grounds identified in subsection (4)(e) of this section, the court may enter an order for less restrictive alternative treatment not to exceed one hundred eighty days from the date of judgment, and may not enter an order for inpatient treatment. An order for less restrictive alternative treatment must name the behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

(i) In cases where the court has ordered less restrictive alternative treatment and has previously made an affirmative special finding under RCW 71.05.280(3)(b), the court shall appoint a multidisciplinary transition team to supervise and assist the person on the order for less restrictive treatment, which shall include a representative of the community behavioral health agency providing treatment under RCW 71.05.585, and a specially trained supervising community corrections officer. The court may omit the appointment of a community corrections officer if it makes a special finding that the appointment of a community corrections officer would not facilitate the success of the person, or the safety of the person and the community under (a)(ii) of this subsection.

(ii) The role of the transition team shall be to facilitate the success of the person on the less restrictive alternative order by monitoring the person's progress in treatment, compliance with court-ordered conditions, and to problem solve around extra support the person may need or circumstances which may arise that threaten the safety of the person or the community. The transition team may develop a monitoring plan which may be carried out by any member of the team. The transition team shall meet according to a schedule developed by the team, and shall communicate as needed if issues arise that require the immediate attention of the team.

(iii) The department of corrections shall collaborate with the department to develop specialized training for community corrections officers under this section. The lack of a trained community corrections officer must not be the cause of delay to entry of a less restrictive alternative order.

(b) At the end of the one hundred eighty-day period of commitment, or one-year period of commitment if subsection (7) of this section applies, the

committed person shall be released unless a petition for an additional one hundred eighty-day period of continued treatment is filed and heard in the same manner as provided in this section. Successive one hundred eighty-day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty-day commitment.

(7) An order for less restrictive treatment entered under subsection (6) of this section may be for up to one year when the person's previous commitment term was for intensive inpatient treatment in a state hospital.

(8) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length except as provided in subsection (7) of this section.

NEW SECTION. Sec. 4. A new section is added to chapter 10.77 RCW to read as follows:

(1) Conditional release planning should start at admission and proceed in coordination between the department and the person's managed care organization, or behavioral health administrative services organization if the person is not eligible for medical assistance under chapter 74.09 RCW. If needed, the department shall assist the person to enroll in medical assistance in suspense status under RCW 74.09.670. The state hospital liaison for the managed care organization or behavioral health administrative services organization shall facilitate conditional release planning in collaboration with the department.

(2) Less restrictive alternative treatment pursuant to a conditional release order, at a minimum, includes the following services:

- (a) Assignment of a care coordinator;
- (b) An intake evaluation with the provider of the conditional treatment;
- (c) A psychiatric evaluation or a substance use disorder evaluation, or both;
- (d) A schedule of regular contacts with the provider of the less restrictive alternative treatment services for the duration of the order;
- (e) A transition plan addressing access to continued services at the expiration of the order;
- (f) An individual crisis plan;
- (g) Consultation about the formation of a mental health advance directive under chapter 71.32 RCW; and
- (h) Appointment of a transition team under RCW 10.77.150;
- (i) Notification to the care coordinator assigned in (a) of this subsection and to the transition team as provided in RCW 10.77.150 if reasonable efforts to engage the client fail to produce substantial compliance with court-ordered treatment conditions.

(3) Less restrictive alternative treatment pursuant to a conditional release order may additionally include requirements to participate in the following services:

- (a) Medication management;
- (b) Psychotherapy;
- (c) Nursing;
- (d) Substance use disorder counseling;
- (e) Residential treatment;
- (f) Support for housing, benefits, education, and employment; and

(g) Periodic court review.

(4) Nothing in this section prohibits items in subsection (2) of this section from beginning before the conditional release of the individual.

(5) If the person was provided with involuntary medication under RCW 10.77.094 or pursuant to a judicial order during the involuntary commitment period, the less restrictive alternative treatment pursuant to the conditional release order may authorize the less restrictive alternative treatment provider or its designee to administer involuntary antipsychotic medication to the person if the provider has attempted and failed to obtain the informed consent of the person and there is a concurring medical opinion approving the medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with an independent mental health professional with prescribing authority.

(6) Less restrictive alternative treatment pursuant to a conditional release order must be administered by a provider that is certified or licensed to provide or coordinate the full scope of services required under the less restrictive alternative order and that has agreed to assume this responsibility.

(7) The care coordinator assigned to a person ordered to less restrictive alternative treatment pursuant to a conditional release order must submit an individualized plan for the person's treatment services to the court that entered the order. An initial plan must be submitted as soon as possible following the intake evaluation and a revised plan must be submitted upon any subsequent modification in which a type of service is removed from or added to the treatment plan.

(8) A care coordinator may disclose information and records related to mental health treatment under RCW 70.02.230(2)(k) for purposes of implementing less restrictive alternative treatment pursuant to a conditional release order.

(9) For the purpose of this section, "care coordinator" means a representative from the department of social and health services who coordinates the activities of less restrictive alternative treatment pursuant to a conditional release order. The care coordinator coordinates activities with the person's transition team that are necessary for enforcement and continuation of the conditional release order and is responsible for coordinating service activities with other agencies and establishing and maintaining a therapeutic relationship with the individual on a continuing basis.

Sec. 5. RCW 10.77.060 and 2016 sp.s. c 29 s 408 are each amended to read as follows:

(1)(a) Whenever a defendant has pleaded not guilty by reason of insanity, or there is reason to doubt his or her competency, the court on its own motion or on the motion of any party shall either appoint or request the secretary to designate a qualified expert or professional person, who shall be approved by the prosecuting attorney, to evaluate and report upon the mental condition of the defendant.

(b) The signed order of the court shall serve as authority for the evaluator to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant. If the court is advised by any party that the

defendant may have a developmental disability, the evaluation must be performed by a developmental disabilities professional.

(c) The evaluator shall assess the defendant in a jail, detention facility, in the community, or in court to determine whether a period of inpatient commitment will be necessary to complete an accurate evaluation. If inpatient commitment is needed, the signed order of the court shall serve as authority for the evaluator to request the jail or detention facility to transport the defendant to a hospital or secure mental health facility for a period of commitment not to exceed fifteen days from the time of admission to the facility. Otherwise, the evaluator shall complete the evaluation.

(d) The court may commit the defendant for evaluation to a hospital or secure mental health facility without an assessment if: (i) The defendant is charged with murder in the first or second degree; (ii) the court finds that it is more likely than not that an evaluation in the jail will be inadequate to complete an accurate evaluation; or (iii) the court finds that an evaluation outside the jail setting is necessary for the health, safety, or welfare of the defendant. The court shall not order an initial inpatient evaluation for any purpose other than a competency evaluation.

(e) The order shall indicate whether, in the event the defendant is committed to a hospital or secure mental health facility for evaluation, all parties agree to waive the presence of the defendant or to the defendant's remote participation at a subsequent competency hearing or presentation of an agreed order if the recommendation of the evaluator is for continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to the expiration of the authorized commitment period.

(f) When a defendant is ordered to be ~~((committed for inpatient evaluation))~~ evaluated under this subsection (1), or when a party or the court determines at first appearance that an order for evaluation under this subsection will be requested or ordered if charges are pursued, the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the evaluator regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found incompetent; (iv) whether it is reasonably likely the defendant will fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the court appointed experts or professional persons. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the evaluation shall include the following:

(a) A description of the nature of the evaluation;

(b) A diagnosis or description of the current mental status of the defendant;

(c) If the defendant suffers from a mental disease or defect, or has a developmental disability, an opinion as to competency;

(d) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, and an evaluation and report by an expert or professional person has been provided concluding that the defendant was criminally insane at the time of the alleged offense, an opinion as to the defendant's sanity at the time of the act, and an opinion as to whether the defendant presents a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, provided that no opinion shall be rendered under this subsection (3)(d) unless the evaluator or court determines that the defendant is competent to stand trial;

(e) When directed by the court, if an evaluation and report by an expert or professional person has been provided concluding that the defendant lacked the capacity at the time of the offense to form the mental state necessary to commit the charged offense, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant should be evaluated by a designated crisis responder under chapter 71.05 RCW.

(4) The secretary may execute such agreements as appropriate and necessary to implement this section and may choose to designate more than one evaluator.

Sec. 6. RCW 70.02.230 and 2020 c 256 s 402 are each amended to read as follows:

(1) (~~Except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a valid authorization under RCW 70.02.030, the~~) The fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies (~~must be confidential~~) may not be disclosed except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a valid authorization under RCW 70.02.030.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed (~~only~~):

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, including Indian health care providers, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

(i) Employed by the facility;

(ii) Who has medical responsibility for the patient's care;

(iii) Who is a designated crisis responder;

(iv) Who is providing services under chapter 71.24 RCW;

(v) Who is employed by a state or local correctional facility where the person is confined or supervised; or

(vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts, including tribal courts, as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional or designated crisis responder is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional or designated crisis responder shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be

disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) By a care coordinator under RCW 71.05.585 or section 4 of this act assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.05 or 10.77 RCW;

(l) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

~~((H))~~ (m) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

~~((M))~~ (n) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a

jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(iv);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

~~((#))~~ (o) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

~~((#))~~ (p) Pursuant to lawful order of a court, including a tribal court;

~~((#))~~ (q) To qualified staff members of the department, to the authority, to behavioral health administrative services organizations, to managed care organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

~~((#))~~ (r) Within the mental health service agency or Indian health care provider facility where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

~~((#))~~ (s) Within the department and the authority as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or substance use disorder of persons who are under the supervision of the department;

~~((#))~~ (t) Between the department of social and health services, the department of children, youth, and families, and the health care authority as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department of social and health services or the department of children, youth, and families;

~~((#))~~ (u) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

~~((#))~~ (v)(i) Consistent with the requirements of the federal health insurance portability and accountability act, to:

(A) A health care provider, including an Indian health care provider, who is providing care to a patient, or to whom a patient has been referred for evaluation or treatment; or

(B) Any other person who is working in a care coordinator role for a health care facility, health care provider, or Indian health care provider, or is under an agreement pursuant to the federal health insurance portability and accountability

act with a health care facility or a health care provider and requires the information and records to assure coordinated care and treatment of that patient.

(ii) A person authorized to use or disclose information and records related to mental health services under this subsection (2)((~~+~~)) (v) must take appropriate steps to protect the information and records relating to mental health services.

(iii) Psychotherapy notes may not be released without authorization of the patient who is the subject of the request for release of information;

((~~+~~)) (w) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in ((~~+~~)) (v) of this subsection;

((~~+~~)) (x) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

((~~+~~)) (y) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

((~~+~~)) (z) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

((~~+~~)) (aa) To all current treating providers, including Indian health care providers, of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department or the authority may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(d). The department, or the authority, if applicable, shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. Neither the department nor the authority may release counseling, inpatient psychiatric hospitalization, or

drug and alcohol treatment information without a signed written release from the client;

~~((aa))~~ (bb)(i) To the secretary of social and health services and the director of the health care authority for either program evaluation or research, or both so long as the secretary or director, where applicable, adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/"

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary, or director, where applicable;

~~((bb))~~ (cc) To any person if the conditions in RCW 70.02.205 are met;

~~((ee))~~ (dd) To the secretary of health for the purposes of the maternal mortality review panel established in RCW 70.54.450;

~~((dd))~~ (ee) To a tribe or Indian health care provider to carry out the requirements of RCW 71.05.150(7).

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for a substance use disorder, the department or the authority may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services or the authority under RCW 71.05.280(3) and 71.05.320(4)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person

who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

Sec. 7. RCW 70.02.240 and 2019 c 381 s 20 are each amended to read as follows:

The fact of admission and all information and records related to mental health services obtained through inpatient or outpatient treatment of a minor under chapter 71.34 RCW must be kept confidential, except as authorized by this section or under RCW 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265. Confidential information under this section may be disclosed only:

(1) In communications between mental health professionals to meet the requirements of chapter 71.34 RCW, in the provision of services to the minor, or in making appropriate referrals;

(2) In the course of guardianship or dependency proceedings;

(3) To the minor, the minor's parent, including those acting as a parent as defined in RCW 71.34.020 for purposes of family-initiated treatment, and the minor's attorney, subject to RCW 13.50.100;

(4) To the courts as necessary to administer chapter 71.34 RCW;

(5) By a care coordinator under RCW 71.34.755 or section 4 of this act assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.34 or 10.77 RCW;

(6) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address must be disclosed upon request;

~~((6))~~ (7) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an

authorized leave, and then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;

~~((7))~~ (8) To the secretary of social and health services and the director of the health care authority for assistance in data collection and program evaluation or research so long as the secretary or director, where applicable, adopts rules for the conduct of such evaluation and research. The rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding minors who have received services in a manner such that the minor is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law.

/s/";

~~((8))~~ (9) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

~~((9))~~ (10) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

~~((10))~~ (11) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

~~((11))~~ (12) Upon the death of a minor, to the minor's next of kin;

~~((12))~~ (13) To a facility in which the minor resides or will reside;

~~((13))~~ (14) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written

or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(iv);

(c) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

~~((14))~~ (15) This section may not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the director of the health care authority or the secretary of the department of social and health services, where applicable. The fact of admission and all information obtained pursuant to chapter 71.34 RCW are not admissible as evidence in any legal proceeding outside chapter 71.34 RCW, except guardianship or dependency, without the written consent of the minor or the minor's parent;

~~((15))~~ (16) For the purpose of a correctional facility participating in the postinstitutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in RCW 74.09.555 and 74.09.295;

~~((16))~~ (17) Pursuant to a lawful order of a court.

Sec. 8. RCW 71.24.035 and 2020 c 256 s 202 are each amended to read as follows:

(1) The authority is designated as the state behavioral health authority which includes recognition as the single state authority for substance use disorders and state mental health authority.

(2) The director shall provide for public, client, tribal, and licensed or certified behavioral health agency participation in developing the state behavioral health program, developing related contracts, and any waiver request to the federal government under medicaid.

(3) The director shall provide for participation in developing the state behavioral health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state behavioral health program.

(4) The authority shall be designated as the behavioral health administrative services organization for a regional service area if a behavioral health administrative services organization fails to meet the authority's contracting requirements or refuses to exercise the responsibilities under its contract or state law, until such time as a new behavioral health administrative services organization is designated.

(5) The director shall:

(a) Assure that any behavioral health administrative services organization, managed care organization, or community behavioral health program provides medically necessary services to medicaid recipients consistent with the state's medicaid state plan or federal waiver authorities, and nonmedicaid services consistent with priorities established by the authority;

(b) Develop contracts in a manner to ensure an adequate network of inpatient services, evaluation and treatment services, and facilities under chapter

71.05 RCW to ensure access to treatment, resource management services, and community support services;

(c) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including managed care contracts for behavioral health services, contracts entered into under RCW 74.09.522, and contracts with public and private agencies, organizations, and individuals to pay them for behavioral health services;

(d) Define administrative costs and ensure that the behavioral health administrative services organization does not exceed an administrative cost of ten percent of available funds;

(e) Establish, to the extent possible, a standardized auditing procedure which is designed to assure compliance with contractual agreements authorized by this chapter and minimizes paperwork requirements. The audit procedure shall focus on the outcomes of service as provided in RCW 71.24.435, 70.320.020, and 71.36.025;

(f) Develop and maintain an information system to be used by the state and behavioral health administrative services organizations and managed care organizations that includes a tracking method which allows the authority to identify behavioral health clients' participation in any behavioral health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and chapter 70.02 RCW;

(g) Monitor and audit behavioral health administrative services organizations as needed to assure compliance with contractual agreements authorized by this chapter;

(h) Monitor and audit access to behavioral health services for individuals eligible for medicaid who are not enrolled in a managed care organization;

(i) Adopt such rules as are necessary to implement the authority's responsibilities under this chapter;

(j) Administer or supervise the administration of the provisions relating to persons with substance use disorders and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;

(k) Require the behavioral health administrative services organizations and the managed care organizations to develop agreements with tribal, city, and county jails and the department of corrections to accept referrals for enrollment on behalf of a confined person, prior to the person's release;

(l) Require behavioral health administrative services organizations and managed care organizations, as applicable, to provide services as identified in RCW 71.05.585 and section 4 of this act to individuals committed for involuntary ((~~commitment~~)) treatment under less restrictive alternative court orders when:

(i) The individual is enrolled in the medicaid program; or

(ii) The individual is not enrolled in medicaid, does not have other insurance which can pay for the services, and the behavioral health administrative services organization has adequate available resources to provide the services; and

(m) Coordinate with the centers for medicare and medicaid services to provide that behavioral health aide services are eligible for federal funding of up to one hundred percent.

(6) The director shall use available resources only for behavioral health administrative services organizations and managed care organizations, except:

(a) To the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act; or

(b) To incentivize improved performance with respect to the client outcomes established in RCW 71.24.435, 70.320.020, and 71.36.025, integration of behavioral health and medical services at the clinical level, and improved care coordination for individuals with complex care needs.

(7) Each behavioral health administrative services organization, managed care organization, and licensed or certified behavioral health agency shall file with the secretary of the department of health or the director, on request, such data, statistics, schedules, and information as the secretary of the department of health or the director reasonably requires. A behavioral health administrative services organization, managed care organization, or licensed or certified behavioral health agency which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may be subject to the contractual remedies in RCW 74.09.871 or may have its service provider certification or license revoked or suspended.

(8) The superior court may restrain any behavioral health administrative services organization, managed care organization, or service provider from operating without a contract, certification, or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(9) Upon petition by the secretary of the department of health or the director, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary of the department of health or the director authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any behavioral health administrative services organization, managed care organization, or service provider refusing to consent to inspection or examination by the authority.

(10) Notwithstanding the existence or pursuit of any other remedy, the secretary of the department of health or the director may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a behavioral health administrative services organization, managed care organization, or service provider without a contract, certification, or a license under this chapter.

(11) The authority shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(12) The authority, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by freestanding evaluation and treatment facilities licensed

under chapter 71.12 RCW or certified under chapter 71.05 RCW. The authority shall periodically share the results of its efforts with the appropriate committees of the senate and the house of representatives.

(13) The authority may:

(a) Plan, establish, and maintain substance use disorder prevention and substance use disorder treatment programs as necessary or desirable;

(b) Coordinate its activities and cooperate with behavioral programs in this and other states, and make contracts and other joint or cooperative arrangements with state, tribal, local, or private agencies in this and other states for behavioral health services and for the common advancement of substance use disorder programs;

(c) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(d) Keep records and engage in research and the gathering of relevant statistics; and

(e) Acquire, hold, or dispose of real property or any interest therein, and construct, lease, or otherwise provide substance use disorder treatment programs.

Sec. 9. RCW 10.77.010 and 2019 c 325 s 5005 are each amended to read as follows:

As used in this chapter:

(1) "Admission" means acceptance based on medical necessity, of a person as a patient.

(2) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less-restrictive setting.

(3) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.

(4) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

(5) "Department" means the state department of social and health services.

(6) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(7) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

(8) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(9) "Developmental disability" means the condition as defined in RCW 71A.10.020(5).

(10) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(11) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

(12) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct.

(13) "History of one or more violent acts" means violent acts committed during: (a) The ten-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the ten-year period in a mental health facility or in confinement as a result of a criminal conviction.

(14) "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, sibling, or domestic partner.

(15) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

(16) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

(17) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual release, and a projected possible date for release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

(18) "Professional person" means:

(a) A psychiatrist licensed as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American

osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry;

(b) A psychologist licensed as a psychologist pursuant to chapter 18.83 RCW; or

(c) A social worker with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(19) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

(20) "Secretary" means the secretary of the department of social and health services or his or her designee.

(21) "Treatment" means any currently standardized medical or mental health procedure including medication.

(22) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others.

(23) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110.

(24) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025.

Sec. 10. RCW 10.77.195 and 2010 c 263 s 9 are each amended to read as follows:

For persons who have received court approval for conditional release, the secretary or the secretary's designee shall supervise the person's compliance with the court-ordered conditions of release in coordination with the multidisciplinary transition team appointed under RCW 10.77.150. The level of supervision provided by the secretary shall correspond to the level of the person's public safety risk. In undertaking supervision of persons under this section, the secretary shall coordinate with any treatment providers (~~designated pursuant to RCW 10.77.150(3), any~~) or department of corrections staff designated pursuant to RCW 10.77.150(~~(2)~~), and local law enforcement, if appropriate. The secretary shall adopt rules to implement this section.

Sec. 11. RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301, and 2020 c 5 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure withdrawal management and stabilization facilities as defined in this section, and correctional facilities operated by state and local governments;

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(10) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(11) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(12) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(13) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(14) "Department" means the department of health;

(15) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(16) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(17) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(18) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(19) "Director" means the director of the authority;

(20) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(21) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(22) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(23) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(24) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising

their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(25) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(26) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a behavioral health facility, or in confinement as a result of a criminal conviction;

(27) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(28) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a behavioral health disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

(29) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(30) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(31) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(32) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal

representatives of public behavioral health service providers under RCW 71.05.130;

(33) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(34) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(35) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(36) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(37) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(38) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(39) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(40) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW;

(41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders;

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(51) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(52) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(53) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(54) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(55) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(56) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(57) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(58) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property;

(59) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated crisis responder. Such orders shall be entered into the Washington crime information center database.

(60) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025.

Sec. 12. RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301, 2020 c 80 s 51, and 2020 c 5 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure withdrawal management and stabilization facilities as defined in this section, and correctional facilities operated by state and local governments;

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(10) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(11) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(12) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(13) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional

release from commitment from a facility providing involuntary care and treatment;

(14) "Department" means the department of health;

(15) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(16) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(17) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(18) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(19) "Director" means the director of the authority;

(20) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(21) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(22) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(23) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(24) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The

habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(25) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(26) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a behavioral health facility, or in confinement as a result of a criminal conviction;

(27) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(28) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a behavioral health disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

(29) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(30) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(31) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(32) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130;

(33) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(34) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(35) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(36) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(37) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(38) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(39) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(40) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW;

(41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders;

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate

training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(51) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(52) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(53) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(54) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(55) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(56) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(57) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(58) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property;

(59) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated crisis responder. Such orders shall be entered into the Washington crime information center database.

(60) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025.

Sec. 13. RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020 c 256 s 301, and 2020 c 5 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure withdrawal management and stabilization facilities as defined in this section, and correctional facilities operated by state and local governments;

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(10) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(11) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(12) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(13) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(14) "Department" means the department of health;

(15) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(16) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(17) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(18) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(19) "Director" means the director of the authority;

(20) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(21) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(22) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(23) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration from safe behavior evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(24) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(25) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(26) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a behavioral health facility, or in confinement as a result of a criminal conviction;

(27) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(28) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a behavioral health disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

(29) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(30) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(31) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(32) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130;

(33) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(34) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(35) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused harm, substantial pain, or which places another person or persons in reasonable fear of harm to themselves or others; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(36) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(37) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(38) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(39) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(40) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW;

(41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders;

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(51) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior;

(52) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(53) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(54) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(55) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(56) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(57) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(58) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(59) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property;

(60) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated crisis responder. Such orders shall be entered into the Washington crime information center database.

(61) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025.

Sec. 14. RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020 c 256 s 301, 2020 c 80 s 51, and 2020 c 5 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure withdrawal management and stabilization facilities as defined in this section, and correctional facilities operated by state and local governments;

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(10) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(11) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(12) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(13) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional

release from commitment from a facility providing involuntary care and treatment;

(14) "Department" means the department of health;

(15) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(16) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(17) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(18) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(19) "Director" means the director of the authority;

(20) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(21) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(22) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(23) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration from safe behavior evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(24) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public

safety presented by the person being assisted as manifested by prior charged criminal conduct;

(25) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(26) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a behavioral health facility, or in confinement as a result of a criminal conviction;

(27) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(28) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a behavioral health disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

(29) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(30) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(31) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(32) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130;

(33) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(34) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(35) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused harm, substantial pain, or which places another person or persons in reasonable fear of harm to themselves or others; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(36) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(37) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(38) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(39) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(40) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW;

(41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders;

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate

training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(51) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior;

(52) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(53) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(54) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(55) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(56) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(57) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(58) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(59) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property;

(60) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated crisis responder. Such orders shall be entered into the Washington crime information center database.

(61) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025.

Sec. 15. RCW 71.05.740 and 2020 c 302 s 58 are each amended to read as follows:

(1) All behavioral health administrative services organizations in the state of Washington must forward historical behavioral health involuntary commitment

information retained by the organization, including identifying information and dates of commitment to the authority. As soon as feasible, the behavioral health administrative services organizations must arrange to report new commitment data to the authority within twenty-four hours. Commitment information under this section does not need to be resent if it is already in the possession of the authority. Behavioral health administrative services organizations and the authority shall be immune from liability related to the sharing of commitment information under this section.

(2) The clerk of the court must share hearing outcomes in all hearings under this chapter with the local behavioral health administrative services organization that serves the region where the superior court is located, including in cases in which the designated crisis responder investigation occurred outside the region. The hearing outcome data must include the name of the facility to which a person has been committed.

Sec. 16. RCW 71.24.035 and 2020 c 256 s 202 are each amended to read as follows:

(1) The authority is designated as the state behavioral health authority which includes recognition as the single state authority for substance use disorders and state mental health authority.

(2) The director shall provide for public, client, tribal, and licensed or certified behavioral health agency participation in developing the state behavioral health program, developing related contracts, and any waiver request to the federal government under medicaid.

(3) The director shall provide for participation in developing the state behavioral health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state behavioral health program.

(4) The authority shall be designated as the behavioral health administrative services organization for a regional service area if a behavioral health administrative services organization fails to meet the authority's contracting requirements or refuses to exercise the responsibilities under its contract or state law, until such time as a new behavioral health administrative services organization is designated.

(5) The director shall:

(a) Assure that any behavioral health administrative services organization, managed care organization, or community behavioral health program provides medically necessary services to medicaid recipients consistent with the state's medicaid state plan or federal waiver authorities, and nonmedicaid services consistent with priorities established by the authority;

(b) Develop contracts in a manner to ensure an adequate network of inpatient services, evaluation and treatment services, and facilities under chapter 71.05 RCW to ensure access to treatment, resource management services, and community support services;

(c) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including managed care contracts for behavioral health services, contracts entered into under RCW 74.09.522, and contracts with public and private agencies, organizations, and individuals to pay them for behavioral health services;

(d) Define administrative costs and ensure that the behavioral health administrative services organization does not exceed an administrative cost of ten percent of available funds;

(e) Establish, to the extent possible, a standardized auditing procedure which is designed to assure compliance with contractual agreements authorized by this chapter and minimizes paperwork requirements. The audit procedure shall focus on the outcomes of service as provided in RCW 71.24.435, 70.320.020, and 71.36.025;

(f) Develop and maintain an information system to be used by the state and behavioral health administrative services organizations and managed care organizations that includes a tracking method which allows the authority to identify behavioral health clients' participation in any behavioral health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and chapter 70.02 RCW;

(g) Monitor and audit behavioral health administrative services organizations as needed to assure compliance with contractual agreements authorized by this chapter;

(h) Monitor and audit access to behavioral health services for individuals eligible for medicaid who are not enrolled in a managed care organization;

(i) Adopt such rules as are necessary to implement the authority's responsibilities under this chapter;

(j) Administer or supervise the administration of the provisions relating to persons with substance use disorders and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;

(k) Require the behavioral health administrative services organizations and the managed care organizations to develop agreements with tribal, city, and county jails and the department of corrections to accept referrals for enrollment on behalf of a confined person, prior to the person's release;

(l) Require behavioral health administrative services organizations and managed care organizations, as applicable, to provide services as identified in RCW 71.05.585 to individuals committed for involuntary commitment under less restrictive alternative court orders when:

(i) The individual is enrolled in the medicaid program; or

(ii) The individual is not enrolled in medicaid(=) and does not have other insurance which can pay for the services(~~(= and the behavioral health administrative services organization has adequate available resources to provide the services)~~); and

(m) Coordinate with the centers for medicare and medicaid services to provide that behavioral health aide services are eligible for federal funding of up to one hundred percent.

(6) The director shall use available resources only for behavioral health administrative services organizations and managed care organizations, except:

(a) To the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act; or

(b) To incentivize improved performance with respect to the client outcomes established in RCW 71.24.435, 70.320.020, and 71.36.025, integration

of behavioral health and medical services at the clinical level, and improved care coordination for individuals with complex care needs.

(7) Each behavioral health administrative services organization, managed care organization, and licensed or certified behavioral health agency shall file with the secretary of the department of health or the director, on request, such data, statistics, schedules, and information as the secretary of the department of health or the director reasonably requires. A behavioral health administrative services organization, managed care organization, or licensed or certified behavioral health agency which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may be subject to the contractual remedies in RCW 74.09.871 or may have its service provider certification or license revoked or suspended.

(8) The superior court may restrain any behavioral health administrative services organization, managed care organization, or service provider from operating without a contract, certification, or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(9) Upon petition by the secretary of the department of health or the director, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary of the department of health or the director authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any behavioral health administrative services organization, managed care organization, or service provider refusing to consent to inspection or examination by the authority.

(10) Notwithstanding the existence or pursuit of any other remedy, the secretary of the department of health or the director may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a behavioral health administrative services organization, managed care organization, or service provider without a contract, certification, or a license under this chapter.

(11) The authority shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(12) The authority, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by freestanding evaluation and treatment facilities licensed under chapter 71.12 RCW or certified under chapter 71.05 RCW. The authority shall periodically share the results of its efforts with the appropriate committees of the senate and the house of representatives.

(13) The authority may:

(a) Plan, establish, and maintain substance use disorder prevention and substance use disorder treatment programs as necessary or desirable;

(b) Coordinate its activities and cooperate with behavioral programs in this and other states, and make contracts and other joint or cooperative arrangements with state, tribal, local, or private agencies in this and other states for behavioral

health services and for the common advancement of substance use disorder programs;

(c) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(d) Keep records and engage in research and the gathering of relevant statistics; and

(e) Acquire, hold, or dispose of real property or any interest therein, and construct, lease, or otherwise provide substance use disorder treatment programs.

Sec. 17. RCW 71.24.045 and 2019 c 325 s 1008 are each amended to read as follows:

(1) The behavioral health administrative services organization contracted with the authority pursuant to RCW 71.24.381 shall:

(a) Administer crisis services for the assigned regional service area. Such services must include:

(i) A behavioral health crisis hotline for its assigned regional service area;

(ii) Crisis response services twenty-four hours a day, seven days a week, three hundred sixty-five days a year;

(iii) Services related to involuntary commitments under chapters 71.05 and 71.34 RCW;

(iv) Tracking of less restrictive alternative orders issued within the region by superior courts, and providing notification to a managed care organization in the region when one of its enrollees receives a less restrictive alternative order so that the managed care organization may ensure that the person is connected to services and that the requirements of RCW 71.05.585 are complied with. If the person receives a less restrictive alternative order and is returning to another region, the behavioral health administrative services organization shall notify the behavioral health administrative services organization in the home region of the less restrictive alternative order so that the home behavioral health administrative services organization may notify the person's managed care organization or provide services if the person is not enrolled in medicaid and does not have other insurance which can pay for those services.

(v) Additional noncrisis behavioral health services, within available resources, to individuals who meet certain criteria set by the authority in its contracts with the behavioral health administrative services organization. These services may include services provided through federal grant funds, provisos, and general fund state appropriations;

~~((+))~~ (vi) Care coordination, diversion services, and discharge planning for nonmedicaid individuals transitioning from state hospitals or inpatient settings to reduce rehospitalization and utilization of crisis services, as required by the authority in contract; and

~~((+))~~ (vii) Regional coordination, cross-system and cross-jurisdiction coordination with tribal governments, and capacity building efforts, such as supporting the behavioral health advisory board, the behavioral health ombuds, and efforts to support access to services or to improve the behavioral health system;

(b) Administer and provide for the availability of an adequate network of evaluation and treatment services to ensure access to treatment, investigation, transportation, court-related, and other services provided as required under chapter 71.05 RCW;

(c) Coordinate services for individuals under RCW 71.05.365;

(d) Administer and provide for the availability of resource management services, residential services, and community support services as required under its contract with the authority;

(e) Contract with a sufficient number, as determined by the authority, of licensed or certified providers for crisis services and other behavioral health services required by the authority;

(f) Maintain adequate reserves or secure a bond as required by its contract with the authority;

(g) Establish and maintain quality assurance processes;

(h) Meet established limitations on administrative costs for agencies that contract with the behavioral health administrative services organization; and

(i) Maintain patient tracking information as required by the authority.

(2) The behavioral health administrative services organization must collaborate with the authority and its contracted managed care organizations to develop and implement strategies to coordinate care with tribes and community behavioral health providers for individuals with a history of frequent crisis system utilization.

(3) The behavioral health administrative services organization shall:

(a) Assure that the special needs of minorities, older adults, individuals with disabilities, children, and low-income persons are met;

(b) Collaborate with local government entities to ensure that policies do not result in an adverse shift of persons with mental illness into state and local correctional facilities; and

(c) Work with the authority to expedite the enrollment or reenrollment of eligible persons leaving state or local correctional facilities and institutions for mental diseases.

NEW SECTION. Sec. 18. A new section is added to chapter 71.24 RCW to read as follows:

The authority shall coordinate with the department of social and health services to offer contracts to community behavioral health agencies to support the nonmedicaid costs entailed in fulfilling the agencies' role as transition team members for a person recommended for conditional release to a less restrictive alternative under RCW 10.77.150, or for a person who qualifies for multidisciplinary transition team services under RCW 71.05.320(6)(a)(i). The authority may establish requirements, provide technical assistance, and provide training as appropriate and within available funding.

NEW SECTION. Sec. 19. The Washington state health care authority shall revise its behavioral health data system for tracking involuntary commitment orders to distinguish less restrictive alternative orders from other types of involuntary commitment orders, including being able to distinguish between initial orders and extensions.

NEW SECTION. Sec. 20. The provisions of this act apply to persons who are committed for inpatient treatment under chapter 10.77 or 71.05 RCW as of the effective date of this section.

Sec. 21. 2020 c 302 s 110 (uncodified) is amended to read as follows:

(1) Sections 4 and 28 (~~(of this act)~~), chapter 302, Laws of 2020 and sections 13 and 14 of this act take effect when monthly single-bed certifications authorized under RCW 71.05.745 fall below 200 reports for 3 consecutive months.

(2) The health care authority must provide written notice of the effective date of sections 4 and 28 (~~(of this act)~~), chapter 302, Laws of 2020 and sections 13 and 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 authority.

NEW SECTION. Sec. 22. Section 2 of this act expires July 1, 2026.

NEW SECTION. Sec. 23. Section 3 of this act takes effect July 1, 2026.

NEW SECTION. Sec. 24. Sections 11 and 13 of this act expire July 1, 2022.

NEW SECTION. Sec. 25. Sections 12 and 14 of this act take effect July 1, 2022.

Passed by the Senate April 14, 2021.

Passed by the House April 11, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 264

[Substitute Senate Bill 5073]

INVOLUNTARY COMMITMENT—VARIOUS PROVISIONS

AN ACT Relating to improving involuntary commitment laws; amending RCW 71.05.203, 71.05.210, 71.05.210, 71.05.240, 71.05.240, 71.05.320, 71.05.320, 71.05.340, 71.05.585, 71.05.590, 71.05.590, 71.34.755, 70.02.230, 70.02.240, 71.05.425, 71.34.705, 71.34.710, 71.34.710, 71.34.720, and 71.34.720; amending 2020 c 302 ss 110 and 111 (uncodified); reenacting and amending RCW 71.05.150, 71.05.150, 71.05.153, 71.05.153, 71.05.020, 71.05.020, 71.05.020, 71.05.020, 71.34.020, 71.34.020, 71.34.020, and 71.34.020; creating a new section; providing effective dates; providing contingent effective dates; providing expiration dates; and declaring an emergency.

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

Sec. 1. RCW 71.05.150 and 2020 c 302 s 13, 2020 c 256 s 302, and 2020 c 5 s 2 are each reenacted and amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a behavioral health disorder, presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient behavioral health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. Before filing the petition, the

designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. As part of the assessment, the designated crisis responder must attempt to ascertain if the person has executed a mental health advance directive under chapter 71.32 RCW. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview.

(2)(a) A ~~((written order of apprehension))~~ superior court judge may issue a warrant to detain a person with a behavioral health disorder to a designated evaluation and treatment facility, a secure withdrawal management and stabilization facility, or an approved substance use disorder treatment program, for a period of not more than one hundred twenty hours for evaluation and treatment ~~((, may be issued by a judge of the superior court))~~ upon request of a designated crisis responder, subject to (d) of this subsection, whenever it appears to the satisfaction of ~~((a))~~ the judge ~~((of the superior court))~~ that:

(i) ~~((That there))~~ There is probable cause to support the petition; and

(ii) ~~((That the))~~ The person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(d) A court may not issue an order to detain a person to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program unless there is an available secure withdrawal management and stabilization facility or approved substance use disorder treatment program that has adequate space for the person.

(e) If the court does not issue an order to detain a person pursuant to this subsection (2), the court shall issue an order to dismiss the initial petition.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within one hundred twenty hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the

place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

~~(5) ((An Indian tribe shall have jurisdiction exclusive to the state as to any involuntary commitment of an American Indian or Alaska Native to an evaluation and treatment facility located within the boundaries of that tribe, unless the tribe has consented to the state's concurrent jurisdiction, or the tribe has expressly declined to exercise its exclusive jurisdiction.~~

~~(6))~~ Tribal court orders for involuntary commitment shall be recognized and enforced in accordance with superior court civil rule 82.5.

~~((7))~~ (6) In any investigation and evaluation of an individual under RCW 71.05.150 or 71.05.153 in which the designated crisis responder knows, or has reason to know, that the individual is an American Indian or Alaska Native who receives medical or behavioral health services from a tribe within this state, the designated crisis responder shall notify the tribe ~~((or))~~ and Indian health care provider regarding whether or not a petition for initial detention or involuntary outpatient treatment will be filed. Notification shall be made in person or by telephonic or electronic communication to the tribal contact listed in the authority's tribal crisis coordination plan as soon as possible but no later than three hours subject to the requirements in RCW 70.02.230 (2)~~((dd))~~ (ce) and (3). A designated crisis responder may restrict the release of information as necessary to comply with 42 C.F.R. Part 2.

Sec. 2. RCW 71.05.150 and 2020 c 302 s 14, 2020 c 256 s 303, and 2020 c 5 s 3 are each reenacted and amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a behavioral health disorder, presents a likelihood of serious harm or is gravely disabled, or that a person is in need of assisted outpatient behavioral health treatment; the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention or involuntary outpatient treatment, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention under this section or a petition for involuntary outpatient behavioral health treatment under RCW 71.05.148. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility, crisis stabilization unit, triage facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program.

As part of the assessment, the designated crisis responder must attempt to ascertain if the person has executed a mental health advance directive under chapter 71.32 RCW. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview.

(2)(a) A ~~((written order of apprehension))~~ superior court judge may issue a warrant to detain a person with a behavioral health disorder to a designated evaluation and treatment facility, a secure withdrawal management and stabilization facility, or an approved substance use disorder treatment program, for a period of not more than one hundred twenty hours for evaluation and treatment ~~((, may be issued by a judge of the superior court))~~ upon request of a designated crisis responder whenever it appears to the satisfaction of ~~((a))~~ the judge ~~((of the superior court))~~ that:

(i) ~~((That there))~~ There is probable cause to support the petition; and

(ii) ~~((That the))~~ The person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(d) If the court does not issue an order to detain a person pursuant to this subsection (2), the court shall issue an order to dismiss the initial petition.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within one hundred twenty hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program. At the time such person

is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

~~(5) ((An Indian tribe shall have jurisdiction exclusive to the state as to any involuntary commitment of an American Indian or Alaska Native to an evaluation and treatment facility located within the boundaries of that tribe, unless the tribe has consented to the state's concurrent jurisdiction, or the tribe has expressly declined to exercise its exclusive jurisdiction.~~

~~(6))~~ Tribal court orders for involuntary commitment shall be recognized and enforced in accordance with superior court civil rule 82.5.

~~((7))~~ (6) In any investigation and evaluation of an individual under RCW 71.05.150 or 71.05.153 in which the designated crisis responder knows, or has reason to know, that the individual is an American Indian or Alaska Native who receives medical or behavioral health services from a tribe within this state, the designated crisis responder shall notify the tribe ~~((or))~~ and Indian health care provider regarding whether or not a petition for initial detention or involuntary outpatient treatment will be filed. Notification shall be made in person or by telephonic or electronic communication to the tribal contact listed in the authority's tribal crisis coordination plan as soon as possible but no later than three hours subject to the requirements in RCW 70.02.230 ~~(2)((dd))~~ (ce) and (3). A designated crisis responder may restrict the release of information as necessary to comply with 42 C.F.R. Part 2.

Sec. 3. RCW 71.05.153 and 2020 c 302 s 16 and 2020 c 5 s 4 are each reenacted and amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a behavioral health disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility, secure withdrawal management and stabilization facility if available with adequate space for the person, or approved substance use disorder treatment program if available with adequate space for the person, for not more than one hundred twenty hours as described in RCW 71.05.180.

(2)(a) Subject to (b) of this subsection, a peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(i) Pursuant to subsection (1) of this section; or

(ii) When he or she has reasonable cause to believe that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(b) A peace officer's delivery of a person, to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program is subject to the availability of a secure withdrawal

management and stabilization facility or approved substance use disorder treatment program with adequate space for the person.

(3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program by peace officers pursuant to subsection (2) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

(4) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional or substance use disorder professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. As part of the assessment, the designated crisis responder must attempt to ascertain if the person has executed a mental health advance directive under chapter 71.32 RCW. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the behavioral health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

(5) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated crisis responder has totally disregarded the requirements of this section.

Sec. 4. RCW 71.05.153 and 2020 c 302 s 17 and 2020 c 5 s 5 are each reenacted and amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a behavioral health disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, for not more than one hundred twenty hours as described in RCW 71.05.180.

(2) A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program by peace officers pursuant to subsection (2) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

(4) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional or substance use disorder professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. As part of the assessment, the designated crisis responder must attempt to ascertain if the person has executed a mental health advance directive under chapter 71.32 RCW. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the behavioral health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

(5) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated crisis responder has totally disregarded the requirements of this section.

Sec. 5. RCW 71.05.203 and 2019 c 325 s 3006 are each amended to read as follows:

(1) The authority and each behavioral health administrative services organization or agency employing designated crisis responders shall publish information in an easily accessible format describing the process for an immediate family member, guardian, or conservator, or a federally recognized Indian tribe if the person is a member of such tribe, to petition for court review of a detention decision under RCW 71.05.201.

(2) A designated crisis responder or designated crisis responder agency that receives a request for investigation for possible detention under this chapter must inquire whether the request comes from an immediate family member, guardian, or conservator, or a federally recognized Indian tribe if the person is a member of such tribe, who would be eligible to petition under RCW 71.05.201. If the designated crisis responder decides not to detain the person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed

since the request for investigation was received and the designated crisis responder has not taken action to have the person detained, the designated crisis responder or designated crisis responder agency must inform the immediate family member, guardian, or conservator, or a federally recognized Indian tribe if the person is a member of such tribe, who made the request for investigation about the process to petition for court review under RCW 71.05.201 and, to the extent feasible, provide the immediate family member, guardian, or conservator, or a federally recognized Indian tribe if the person is a member of such tribe, with written or electronic information about the petition process. Information provided to a federally recognized Indian tribe shall be sent to the tribal contact listed in the authority's tribal crisis coordination plan. If provision of written or electronic information is not feasible, the designated crisis responder or designated crisis responder agency must refer the immediate family member, guardian, or conservator, or a federally recognized Indian tribe if the person is a member of such tribe, to a website where published information on the petition process may be accessed. The designated crisis responder or designated crisis responder agency must document the manner and date on which the information required under this subsection was provided to the immediate family member, guardian, or conservator, or a federally recognized Indian tribe if the person is a member of such tribe.

(3) A designated crisis responder or designated crisis responder agency must, upon request, disclose the date of a designated crisis responder investigation under this chapter to an immediate family member, guardian, or conservator, or a federally recognized Indian tribe if the person is a member of such tribe, of a person to assist in the preparation of a petition under RCW 71.05.201.

Sec. 6. RCW 71.05.210 and 2020 c 302 s 26 are each amended to read as follows:

(1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program:

(a) Shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by:

(i) One physician, physician assistant, or advanced registered nurse practitioner; and

(ii) One mental health professional. If the person is detained for substance use disorder evaluation and treatment, the person may be examined by a substance use disorder professional instead of a mental health professional; and

(b) Shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (i) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (ii) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to one hundred twenty hours, if, in the opinion of the professional person in charge of the facility, or his or her professional designee,

the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for one hundred twenty hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

(2) If, ~~((after))~~ at any time during the involuntary treatment hold and following the initial examination and evaluation, the mental health professional or substance use disorder professional and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person, if detained to an evaluation and treatment facility, would be better served by placement in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, or, if detained to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility then the person shall be referred to the more appropriate placement for the remainder of the current commitment period without any need for further court review; however, a person may only be referred to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program if there is an available secure withdrawal management and stabilization facility or approved substance use disorder treatment program with adequate space for the person.

(3) An evaluation and treatment center, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated crisis responder and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

Sec. 7. RCW 71.05.210 and 2020 c 302 s 27 are each amended to read as follows:

(1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program:

(a) Shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by:

(i) One physician, physician assistant, or advanced registered nurse practitioner; and

(ii) One mental health professional. If the person is detained for substance use disorder evaluation and treatment, the person may be examined by a substance use disorder professional instead of a mental health professional; and

(b) Shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (i) Any other medication previously prescribed by a person licensed

under Title 18 RCW; or (ii) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to one hundred twenty hours, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for one hundred twenty hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

(2) If, ~~((after))~~ at any time during the involuntary treatment hold and following the initial examination and evaluation, the mental health professional or substance use disorder professional and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person, if detained to an evaluation and treatment facility, would be better served by placement in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, or, if detained to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility then the person shall be referred to the more appropriate placement for the remainder of the current commitment period without any need for further court review.

(3) An evaluation and treatment center, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated crisis responder and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

Sec. 8. RCW 71.05.240 and 2020 c 302 s 39 are each amended to read as follows:

(1) If a petition is filed for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing within one hundred twenty hours of the initial detention of such person as determined in RCW 71.05.180, or at a time determined under RCW 71.05.148.

(2) If the petition is for mental health treatment, the court or the prosecutor at the time of the probable cause hearing and before an order of commitment is entered shall inform the person both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.05.230 will result in the loss of his or her firearm rights if the person is subsequently detained for involuntary treatment under this section.

(3) If the person or his or her attorney alleges, prior to the commencement of the hearing, that the person has in good faith volunteered for treatment, the petitioner must show, by preponderance of the evidence, that the person has not in good faith volunteered for appropriate treatment. In order to qualify as a good faith volunteer, the person must abide by procedures and a treatment plan as prescribed by a treatment facility and professional staff.

(4)(a) Subject to (b) of this subsection, at the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a behavioral health disorder, presents a likelihood of serious harm, or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility licensed or certified to provide treatment by the department or under RCW 71.05.745.

(b) A court may only order commitment to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program if there is an available facility with adequate space for the person.

(c) At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a behavioral health disorder, presents a likelihood of serious harm or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive alternative course of treatment for up to ninety days.

(d) If the court finds by a preponderance of the evidence that such person, as the result of a behavioral health disorder, is in need of assisted outpatient behavioral health treatment, and that the person does not present a likelihood of serious harm and is not gravely disabled, the court shall order an appropriate less restrictive alternative course of treatment for up to ninety days.

(5) An order for less restrictive alternative treatment must name the behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the treatment recommendations of the behavioral health service provider.

(6) The court shall notify the person orally and in writing that if involuntary treatment is sought beyond the fourteen-day inpatient or ninety-day less restrictive treatment period, the person has the right to a full hearing or jury trial under RCW 71.05.310. If the commitment is for mental health treatment, the court shall also notify the person orally and in writing that the person is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

(7) If the court does not issue an order to detain a person under this section, the court shall issue an order to dismiss the petition.

(8) Nothing in this section precludes the court from subsequently modifying the terms of an order for less restrictive alternative treatment under RCW 71.05.590(3).

Sec. 9. RCW 71.05.240 and 2020 c 302 s 40 are each amended to read as follows:

(1) If a petition is filed for fourteen day involuntary treatment or ninety days of less restrictive alternative treatment, the court shall hold a probable cause hearing within one hundred twenty hours of the initial detention of such person as determined in RCW 71.05.180, or at a time determined under RCW 71.05.148.

(2) If the petition is for mental health treatment, the court or the prosecutor at the time of the probable cause hearing and before an order of commitment is entered shall inform the person both orally and in writing that the failure to make a good faith effort to seek voluntary treatment as provided in RCW 71.05.230 will result in the loss of his or her firearm rights if the person is subsequently detained for involuntary treatment under this section.

(3) If the person or his or her attorney alleges, prior to the commencement of the hearing, that the person has in good faith volunteered for treatment, the petitioner must show, by preponderance of the evidence, that the person has not in good faith volunteered for appropriate treatment. In order to qualify as a good faith volunteer, the person must abide by procedures and a treatment plan as prescribed by a treatment facility and professional staff.

(4)(a) At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a behavioral health disorder, presents a likelihood of serious harm, or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility licensed or certified to provide treatment by the department or under RCW 71.05.745.

(b) At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of a behavioral health disorder, presents a likelihood of serious harm or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive alternative course of treatment for up to ninety days.

(c) If the court finds by a preponderance of the evidence that such person, as the result of a behavioral health disorder, is in need of assisted outpatient behavioral health treatment, and that the person does not present a likelihood of serious harm and is not gravely disabled, the court shall order an appropriate less restrictive alternative course of treatment for up to ninety days.

(5) An order for less restrictive alternative treatment must name the behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the treatment recommendations of the behavioral health service provider.

(6) The court shall notify the person orally and in writing that if involuntary treatment is sought beyond the fourteen-day inpatient or ninety-day less restrictive treatment period, such person has the right to a full hearing or jury trial under RCW 71.05.310. If the commitment is for mental health treatment, the court shall also notify the person orally and in writing that the person is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

(7) If the court does not issue an order to detain a person under this section, the court shall issue an order to dismiss the petition.

(8) Nothing in this section precludes the court from subsequently modifying the terms of an order for less restrictive alternative treatment under RCW 71.05.590(3).

Sec. 10. RCW 71.05.320 and 2020 c 302 s 45 are each amended to read as follows:

(1)(a) Subject to (b) of this subsection, if the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment.

(b) If the order for inpatient treatment is based on a substance use disorder, treatment must take place at an approved substance use disorder treatment program. The court may only enter an order for commitment based on a substance use disorder if there is an available approved substance use disorder treatment program with adequate space for the person.

(c) If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment to the custody of the department of social and health services or to a facility certified for one hundred eighty-day treatment by the department or under RCW 71.05.745.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court or jury finds that the grounds set forth in RCW 71.05.280(5) have been proven, and provide the only basis for commitment, the court must enter an order for less restrictive alternative treatment for up to ninety days from the date of judgment and may not order inpatient treatment.

(3) An order for less restrictive alternative treatment entered under subsection (2) of this section must name the behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

(4) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated crisis responder, files a new petition for involuntary treatment on the grounds that the committed person:

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of a behavioral health disorder or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and

continues to present, as a result of a behavioral health disorder or developmental disability, a likelihood of serious harm; or

(c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result of a behavioral health disorder or developmental disability continues to present a substantial likelihood of repeating acts similar to the charged criminal behavior, when considering the person's life history, progress in treatment, and the public safety.

(ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty-day period whenever the petition presents prima facie evidence that the person continues to suffer from a behavioral health disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the behavioral health disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior. The initial or additional commitment period may include transfer to a specialized program of intensive support and treatment, which may be initiated prior to or after discharge from the state hospital; or

(d) Continues to be gravely disabled; or

(e) Is in need of assisted outpatient behavioral health treatment.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to prove such conduct again.

If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(5) A new petition for involuntary treatment filed under subsection (4) of this section shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

(6)(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, subject to subsection (1)(b) of this section, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment, except as provided in subsection (7) of this section. If the court's order is based solely on the grounds identified in subsection (4)(e) of this section, the court may enter an order for less restrictive alternative treatment not to exceed one hundred eighty days from the date of judgment, and may not enter an order for inpatient treatment. An order for less restrictive alternative treatment must name the behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

(b) At the end of the one hundred eighty-day period of commitment, or one-year period of commitment if subsection (7) of this section applies, the committed person shall be released unless a petition for an additional one

hundred eighty-day period of continued treatment is filed and heard in the same manner as provided in this section. Successive one hundred eighty-day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty-day commitment.

(7) An order for less restrictive treatment entered under subsection (6) of this section may be for up to one year when the person's previous commitment term was for intensive inpatient treatment in a state hospital.

(8) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length except as provided in subsection (7) of this section.

(9) Nothing in this section precludes the court from subsequently modifying the terms of an order for less restrictive alternative treatment under RCW 71.05.590(3).

Sec. 11. RCW 71.05.320 and 2020 c 302 s 46 are each amended to read as follows:

(1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment.

If the order for inpatient treatment is based on a substance use disorder, treatment must take place at an approved substance use disorder treatment program. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment to the custody of the department of social and health services or to a facility certified for one hundred eighty-day treatment by the department or under RCW 71.05.745.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment. If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment. If the court or jury finds that the grounds set forth in RCW 71.05.280(5) have been proven, and provide the only basis for commitment, the court must enter an order for less restrictive alternative treatment for up to ninety days from the date of judgment and may not order inpatient treatment.

(3) An order for less restrictive alternative treatment entered under subsection (2) of this section must name the behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

(4) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated crisis responder, files a new petition for involuntary treatment on the grounds that the committed person:

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of a behavioral health disorder or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of a behavioral health disorder or developmental disability, a likelihood of serious harm; or

(c)(i) Is in custody pursuant to RCW 71.05.280(3) and as a result of a behavioral health disorder or developmental disability continues to present a substantial likelihood of repeating acts similar to the charged criminal behavior, when considering the person's life history, progress in treatment, and the public safety.

(ii) In cases under this subsection where the court has made an affirmative special finding under RCW 71.05.280(3)(b), the commitment shall continue for up to an additional one hundred eighty-day period whenever the petition presents prima facie evidence that the person continues to suffer from a behavioral health disorder or developmental disability that results in a substantial likelihood of committing acts similar to the charged criminal behavior, unless the person presents proof through an admissible expert opinion that the person's condition has so changed such that the behavioral health disorder or developmental disability no longer presents a substantial likelihood of the person committing acts similar to the charged criminal behavior. The initial or additional commitment period may include transfer to a specialized program of intensive support and treatment, which may be initiated prior to or after discharge from the state hospital; or

(d) Continues to be gravely disabled; or

(e) Is in need of assisted outpatient behavioral health treatment.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to prove such conduct again.

If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(5) A new petition for involuntary treatment filed under subsection (4) of this section shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

(6)(a) The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this section are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment, except as provided in subsection (7) of this section. If the

court's order is based solely on the grounds identified in subsection (4)(e) of this section, the court may enter an order for less restrictive alternative treatment not to exceed one hundred eighty days from the date of judgment, and may not enter an order for inpatient treatment. An order for less restrictive alternative treatment must name the behavioral health service provider responsible for identifying the services the person will receive in accordance with RCW 71.05.585, and must include a requirement that the person cooperate with the services planned by the behavioral health service provider.

(b) At the end of the one hundred eighty-day period of commitment, or one-year period of commitment if subsection (7) of this section applies, the committed person shall be released unless a petition for an additional one hundred eighty-day period of continued treatment is filed and heard in the same manner as provided in this section. Successive one hundred eighty-day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty-day commitment.

(7) An order for less restrictive treatment entered under subsection (6) of this section may be for up to one year when the person's previous commitment term was for intensive inpatient treatment in a state hospital.

(8) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length except as provided in subsection (7) of this section.

(9) Nothing in this section precludes the court from subsequently modifying the terms of an order for less restrictive alternative treatment under RCW 71.05.590(3).

Sec. 12. RCW 71.05.340 and 2018 c 201 s 3017 are each amended to read as follows:

(1)(a) When, in the opinion of the superintendent or the professional person in charge of the hospital or facility providing involuntary treatment, the committed person can be appropriately served by outpatient treatment prior to or at the expiration of the period of commitment, then such outpatient care may be required as a term of conditional release for a period which, when ~~((added to the))~~ combined with the number of days the person has spent in inpatient treatment ((period)), shall not exceed ((the period of commitment)) 90 days if the underlying commitment was for a period of 14 or 90 days, or 180 days if the underlying commitment was for a period of 180 days. If the facility or agency designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated must agree in writing to assume such responsibility. A copy of the terms of conditional release shall be given to the patient, the designated crisis responder in the county in which the patient is to receive outpatient treatment, and to the court of original commitment.

(b) Before a person committed under grounds set forth in RCW 71.05.280(3) or 71.05.320(4)(c) is conditionally released under (a) of this subsection, the superintendent or professional person in charge of the hospital or facility providing involuntary treatment shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision to conditionally release the person. Notice and a copy of the terms of conditional release shall be provided at least

thirty days before the person is released from inpatient care. Within twenty days after receiving notice, the prosecuting attorney may petition the court in the county that issued the commitment order to hold a hearing to determine whether the person may be conditionally released and the terms of the conditional release. The prosecuting attorney shall provide a copy of the petition to the superintendent or professional person in charge of the hospital or facility providing involuntary treatment, the attorney, if any, and guardian or conservator of the committed person, and the court of original commitment. If the county in which the committed person is to receive outpatient treatment is the same county in which the criminal charges against the committed person were dismissed, then the court shall, upon the motion of the prosecuting attorney, transfer the proceeding to the court in that county. The court shall conduct a hearing on the petition within ten days of the filing of the petition. The committed person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as set forth in this subsection and except that there shall be no right to jury trial. The issue to be determined at the hearing is whether or not the person may be conditionally released without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security. If the court disapproves of the conditional release, it may do so only on the basis of substantial evidence. Pursuant to the determination of the court upon the hearing, the conditional release of the person shall be approved by the court on the same or modified conditions or the person shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he or she was committed, or otherwise in accordance with the provisions of this chapter.

(2) The facility or agency designated to provide outpatient care or the secretary of the department of social and health services may modify the conditions for continued release when such modification is in the best interest of the person. Notification of such changes shall be sent to all persons receiving a copy of the original conditions. Enforcement or revocation proceedings related to a conditional release (~~order~~) may occur as provided under RCW 71.05.590.

Sec. 13. RCW 71.05.585 and 2020 c 302 s 53 are each amended to read as follows:

(1) Less restrictive alternative treatment, at a minimum, includes the following services:

- (a) Assignment of a care coordinator;
- (b) An intake evaluation with the provider of the less restrictive alternative treatment;
- (c) A psychiatric evaluation, a substance use disorder evaluation, or both;
- (d) A schedule of regular contacts with the provider of the (~~less restrictive alternative~~) treatment services for the duration of the order;
- (e) A transition plan addressing access to continued services at the expiration of the order;
- (f) An individual crisis plan; (~~and~~)
- (g) Consultation about the formation of a mental health advance directive under chapter 71.32 RCW; and

(h) Notification to the care coordinator assigned in (a) of this subsection if reasonable efforts to engage the client fail to produce substantial compliance with court-ordered treatment conditions.

(2) Less restrictive alternative treatment may additionally include requirements to participate in the following services:

- (a) Medication management;
- (b) Psychotherapy;
- (c) Nursing;
- (d) Substance ((~~abuse~~) use disorder) counseling;
- (e) Residential treatment; ((~~and~~))
- (f) Support for housing, benefits, education, and employment; and
- (g) Periodic court review.

(3) If the person was provided with involuntary medication under RCW 71.05.215 or pursuant to a judicial order during the involuntary commitment period, the less restrictive alternative treatment order may authorize the less restrictive alternative treatment provider or its designee to administer involuntary antipsychotic medication to the person if the provider has attempted and failed to obtain the informed consent of the person and there is a concurring medical opinion approving the medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with an independent mental health professional with prescribing authority.

(4) Less restrictive alternative treatment must be administered by a provider that is certified or licensed to provide or coordinate the full scope of services required under the less restrictive alternative order and that has agreed to assume this responsibility.

(5) The care coordinator assigned to a person ordered to less restrictive alternative treatment must submit an individualized plan for the person's treatment services to the court that entered the order. An initial plan must be submitted as soon as possible following the intake evaluation and a revised plan must be submitted upon any subsequent modification in which a type of service is removed from or added to the treatment plan.

(6) A care coordinator may disclose information and records related to mental health services pursuant to RCW 70.02.230(2)(k) for purposes of implementing less restrictive alternative treatment.

(7) For the purpose of this section, "care coordinator" means a clinical practitioner who coordinates the activities of less restrictive alternative treatment. The care coordinator coordinates activities with the designated crisis responders that are necessary for enforcement and continuation of less restrictive alternative orders and is responsible for coordinating service activities with other agencies and establishing and maintaining a therapeutic relationship with the individual on a continuing basis.

Sec. 14. RCW 71.05.590 and 2020 c 302 s 55 are each amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release ((~~order~~)), or a designated crisis responder, may take action to enforce, modify, or revoke a less restrictive alternative or conditional release ((~~order~~)). The agency, facility, or designated crisis responder must determine that:

- (a) The person is failing to adhere to the terms and conditions of the court order;
- (b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel or advise the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) To request a court hearing for review and modification of the court order. The request must be made to or by the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d) To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, evaluation and treatment facility, secure withdrawal management and stabilization facility with available space, or an approved substance use disorder treatment program with available space. The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation procedures under subsection ~~((4))~~ (5) of this section in appropriate circumstances; and

(e) To initiate revocation procedures under subsection ~~((4))~~ (5) of this section or, if the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, initiate initial inpatient detention procedures under subsection ~~((6))~~ (7) of this section.

(3) A court may supervise a person on an order for less restrictive alternative treatment or a conditional release. While the person is under the order, the court may:

(a) Require appearance in court for periodic reviews; and

(b) Modify the order after considering input from the agency or facility designated to provide or facilitate services. The court may not remand the person into inpatient treatment except as provided under subsection (5) of this section, but may take actions under subsection (2)(a) through (d) of this section.

(4) The facility or agency designated to provide outpatient treatment shall notify the secretary of the department of social and health services or designated crisis responder when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

~~((4))~~ (5)(a) Except as provided in subsection ~~((6))~~ (7) of this section, a designated crisis responder or the secretary of the department of social and health services may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility, an available secure withdrawal management and stabilization facility with adequate space, or an available approved substance use disorder treatment program with adequate space, in or near the county in which he or she is receiving outpatient treatment. Proceedings under this subsection ~~((4))~~ (5) may be initiated without ordering the apprehension and detention of the person.

(b) Except as provided in subsection ~~((6))~~ (7) of this section, a person detained under this subsection ~~((4))~~ (5) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary of the department of social and health services may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated crisis responder or secretary of the department of social and health services shall file a revocation petition and order of apprehension and detention with the court of the county where the person is currently located or being detained. The designated crisis responder shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings is the county where the petition is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation is filed, within two judicial days of the person's detention.

(d) Except as provided in subsection ~~((6))~~ (7) of this section, the issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release ~~(order)~~ or order the person's detention for inpatient treatment. The person may waive the court hearing and

allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period must be for fourteen days from the revocation hearing if the outpatient order was based on a petition under RCW 71.05.160 or 71.05.230. If the court orders detention for inpatient treatment and the outpatient order was based on a petition under RCW 71.05.290 or 71.05.320, the number of days remaining on the outpatient order must be converted to days of inpatient treatment authorized in the original court order. A court may not issue an order to detain a person for inpatient treatment in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program under this subsection unless there is a secure withdrawal management and stabilization facility or approved substance use disorder treatment program available and with adequate space for the person.

~~((5))~~ (6) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

~~((6))~~ (7)(a) If the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, a designated crisis responder may initiate inpatient detention procedures under RCW 71.05.150 or 71.05.153 when appropriate. A designated crisis responder or the secretary may, upon their own motion or notification by the facility or agency designated to provide outpatient care to a person subject to a less restrictive alternative treatment order under RCW 71.05.320 subsequent to an order for assisted outpatient behavioral health treatment entered under RCW 71.05.148, order the person to be apprehended and taken into custody and temporary detention for inpatient evaluation in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or in an approved substance use disorder treatment program, in or near the county in which he or she is receiving outpatient treatment. Proceedings under this subsection may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection may be held for evaluation for up to one hundred twenty hours, excluding weekends and holidays, pending a court hearing. If the person is not detained, the hearing must be scheduled within one hundred twenty hours of service on the person. The designated crisis responder or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The issues for the court to determine are whether to continue the detention of the person for inpatient treatment or whether the court should reinstate or modify the person's less restrictive alternative order or order the person's detention for inpatient treatment. To continue detention after the one hundred twenty hour period, the court must find that the person, as a result of a behavioral health disorder, presents a likelihood of serious harm or is gravely disabled and, after considering less restrictive alternatives to involuntary detention and treatment, that no such alternatives are in the best interest of the person or others.

(d) A court may not issue an order to detain a person for inpatient treatment in a secure withdrawal management and stabilization facility or approved

substance use disorder program under this subsection unless there is a secure withdrawal management and stabilization facility or approved substance use disorder treatment program available and with adequate space for the person.

Sec. 15. RCW 71.05.590 and 2020 c 302 s 56 are each amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release (~~((order))~~), or a designated crisis responder, may take action to enforce, modify, or revoke a less restrictive alternative or conditional release (~~((order))~~). The agency, facility, or designated crisis responder must determine that:

(a) The person is failing to adhere to the terms and conditions of the court order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel or advise the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) To request a court hearing for review and modification of the court order. The request must be made to or by the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d) To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, evaluation and treatment facility, secure withdrawal management and stabilization facility, or an approved substance use disorder treatment program. The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical

judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation procedures under subsection ~~((4))~~ (5) of this section in appropriate circumstances; and

(e) To initiate revocation procedures under subsection ~~((4))~~ (5) of this section or, if the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, initial inpatient detention procedures under subsection ~~((6))~~ (7) of this section.

(3) A court may supervise a person on an order for less restrictive alternative treatment or a conditional release. While the person is under the order, the court may:

(a) Require appearance in court for periodic reviews; and

(b) Modify the order after considering input from the agency or facility designated to provide or facilitate services. The court may not remand the person into inpatient treatment except as provided under subsection (5) of this section, but may take actions under subsection (2)(a) through (d) of this section.

(4) The facility or agency designated to provide outpatient treatment shall notify the secretary of the department of social and health services or designated crisis responder when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

~~((4))~~ (5)(a) Except as provided in subsection ~~((6))~~ (7) of this section, a designated crisis responder or the secretary of the department of social and health services may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility, in a secure withdrawal management and stabilization facility, or in an approved substance use disorder treatment program, in or near the county in which he or she is receiving outpatient treatment. Proceedings under this subsection ~~((4))~~ (5) may be initiated without ordering the apprehension and detention of the person.

(b) Except as provided in subsection ~~((6))~~ (7) of this section, a person detained under this subsection ~~((4))~~ (5) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary of the department of social and health services may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The designated crisis responder or secretary of the department of social and health services shall file a revocation petition and order of apprehension and detention with the court of the county where the person is currently located or being detained. The designated crisis responder shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings is the county where the petition is filed. Notice of the filing must be provided to the court that originally ordered

commitment, if different from the court where the petition for revocation is filed, within two judicial days of the person's detention.

(d) Except as provided in subsection ~~((6))~~ (7) of this section, the issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release ~~((order))~~ or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period must be for fourteen days from the revocation hearing if the outpatient order was based on a petition under RCW 71.05.160 or 71.05.230. If the court orders detention for inpatient treatment and the outpatient order was based on a petition under RCW 71.05.290 or 71.05.320, the number of days remaining on the outpatient order must be converted to days of inpatient treatment authorized in the original court order.

~~((5))~~ (6) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

~~((6))~~ (7)(a) If the current commitment is solely based on the person being in need of assisted outpatient behavioral health treatment as defined in RCW 71.05.020, a designated crisis responder may initiate inpatient detention procedures under RCW 71.05.150 or 71.05.153 when appropriate. A designated crisis responder or the secretary may, upon their own motion or notification by the facility or agency designated to provide outpatient care to a person subject to a less restrictive alternative treatment order under RCW 71.05.320 subsequent to an order for assisted outpatient behavioral health treatment entered under RCW 71.05.148, order the person to be apprehended and taken into custody and temporary detention for inpatient evaluation in an evaluation and treatment facility, in a secure withdrawal management and stabilization facility, or in an approved substance use disorder treatment program, in or near the county in which he or she is receiving outpatient treatment. Proceedings under this subsection may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection may be held for evaluation for up to one hundred twenty hours, excluding weekends and holidays, pending a court hearing. The designated crisis responder or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

(c) The issues for the court to determine are whether to continue the detention of the person for inpatient treatment or whether the court should reinstate or modify the person's less restrictive alternative order or order the person's detention for inpatient treatment. To continue detention after the one hundred twenty hour period, the court must find that the person, as a result of a behavioral health disorder, presents a likelihood of serious harm or is gravely

disabled and, after considering less restrictive alternatives to involuntary detention and treatment, that no such alternatives are in the best interest of the person or others.

Sec. 16. RCW 71.34.755 and 2020 c 302 s 96 are each amended to read as follows:

(1) Less restrictive alternative treatment, at a minimum, must include the following services:

- (a) Assignment of a care coordinator;
- (b) An intake evaluation with the provider of the less restrictive alternative treatment;
- (c) A psychiatric evaluation, a substance use disorder evaluation, or both;
- (d) A schedule of regular contacts with the provider of the less restrictive alternative treatment services for the duration of the order;
- (e) A transition plan addressing access to continued services at the expiration of the order;
- (f) An individual crisis plan; and
- (g) Notification to the care coordinator assigned in (a) of this subsection if reasonable efforts to engage the client fail to produce substantial compliance with court-ordered treatment conditions.

(2) Less restrictive alternative treatment may include the following additional services:

- (a) Medication management;
- (b) Psychotherapy;
- (c) Nursing;
- (d) Substance ~~((abuse))~~ use disorder counseling;
- (e) Residential treatment; ~~((and))~~
- (f) Support for housing, benefits, education, and employment; and
- (g) Periodic court review.

(3) If the minor was provided with involuntary medication during the involuntary commitment period, the less restrictive alternative treatment order may authorize the less restrictive alternative treatment provider or its designee to administer involuntary antipsychotic medication to the person if the provider has attempted and failed to obtain the informed consent of the person and there is a concurring medical opinion approving the medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with an independent mental health professional with prescribing authority.

(4) Less restrictive alternative treatment must be administered by a provider that is certified or licensed to provide or coordinate the full scope of services required under the less restrictive alternative order and that has agreed to assume this responsibility.

(5) The care coordinator assigned to a minor ordered to less restrictive alternative treatment must submit an individualized plan for the minor's treatment services to the court that entered the order. An initial plan must be submitted as soon as possible following the intake evaluation and a revised plan must be submitted upon any subsequent modification in which a type of service is removed from or added to the treatment plan.

(6) A care coordinator may disclose information and records related to mental health services pursuant to RCW 70.02.230(2)(k) for purposes of implementing less restrictive alternative treatment.

(7) For the purpose of this section, "care coordinator" means a clinical practitioner who coordinates the activities of less restrictive alternative treatment. The care coordinator coordinates activities with the designated crisis responders that are necessary for enforcement and continuation of less restrictive alternative treatment orders and is responsible for coordinating service activities with other agencies and establishing and maintaining a therapeutic relationship with the individual on a continuing basis.

Sec. 17. RCW 70.02.230 and 2020 c 256 s 402 are each amended to read as follows:

(1) ~~((Except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a valid authorization under RCW 70.02.030, the))~~ The fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies ((must be confidential)) may not be disclosed except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or under a valid authorization under RCW 70.02.030.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed ~~((only))~~:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, including Indian health care providers, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

- (i) Employed by the facility;
- (ii) Who has medical responsibility for the patient's care;
- (iii) Who is a designated crisis responder;
- (iv) Who is providing services under chapter 71.24 RCW;
- (v) Who is employed by a state or local correctional facility where the person is confined or supervised; or
- (vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts, including tribal courts, as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional or designated crisis responder is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional or designated crisis responder shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly

liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) By a care coordinator under RCW 71.05.585 assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.05 RCW;

(l) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

~~((h))~~ (m) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

~~((m))~~ (n) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(iv);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

~~((n))~~ (o) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced

registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

((+)) (p) Pursuant to lawful order of a court, including a tribal court;

((+)) (q) To qualified staff members of the department, to the authority, to behavioral health administrative services organizations, to managed care organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

((+)) (r) Within the mental health service agency or Indian health care provider facility where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

((+)) (s) Within the department and the authority as necessary to coordinate treatment for mental illness, developmental disabilities, ~~((alcoholism,))~~ or substance use disorder of persons who are under the supervision of the department;

((+)) (t) Between the department of social and health services, the department of children, youth, and families, and the health care authority as necessary to coordinate treatment for mental illness, developmental disabilities, ~~((alcoholism, or drug abuse))~~ or substance use disorder of persons who are under the supervision of the department of social and health services or the department of children, youth, and families;

((+)) (u) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

((+)) (v)(i) Consistent with the requirements of the federal health insurance portability and accountability act, to:

(A) A health care provider, including an Indian health care provider, who is providing care to a patient, or to whom a patient has been referred for evaluation or treatment; or

(B) Any other person who is working in a care coordinator role for a health care facility, health care provider, or Indian health care provider, or is under an agreement pursuant to the federal health insurance portability and accountability act with a health care facility or a health care provider and requires the information and records to assure coordinated care and treatment of that patient.

(ii) A person authorized to use or disclose information and records related to mental health services under this subsection (2)((+)) (v) must take appropriate steps to protect the information and records relating to mental health services.

(iii) Psychotherapy notes may not be released without authorization of the patient who is the subject of the request for release of information;

((+)) (w) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in ((+)) (v) of this subsection;

~~((w))~~ (x) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

~~((x))~~ (y) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

~~((y))~~ (z) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

~~((z))~~ (aa) To all current treating providers, including Indian health care providers, of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department or the authority may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(d). The department, or the authority, if applicable, shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. Neither the department nor the authority may release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

~~((aa))~~ (bb)(i) To the secretary of social and health services and the director of the health care authority for either program evaluation or research, or both so long as the secretary or director, where applicable, adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/"

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary, or director, where applicable;

~~((bb))~~ (cc) To any person if the conditions in RCW 70.02.205 are met;

~~((ee))~~ (dd) To the secretary of health for the purposes of the maternal mortality review panel established in RCW 70.54.450; or

~~((dd))~~ (ee) To a tribe or Indian health care provider to carry out the requirements of RCW 71.05.150~~((7))~~ (6).

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for a substance use disorder, the department or the authority may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services or the authority under RCW 71.05.280(3) and 71.05.320(4)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

- (i) One thousand dollars; or
 - (ii) Three times the amount of actual damages sustained, if any.
- (b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.
- (c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.
- (d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.
- (e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

Sec. 18. RCW 70.02.240 and 2019 c 381 s 20 are each amended to read as follows:

The fact of admission and all information and records related to mental health services obtained through inpatient or outpatient treatment of a minor under chapter 71.34 RCW must be kept confidential, except as authorized by this section or under RCW 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265. Confidential information under this section may be disclosed only:

(1) In communications between mental health professionals to meet the requirements of chapter 71.34 RCW, in the provision of services to the minor, or in making appropriate referrals;

(2) In the course of guardianship or dependency proceedings;

(3) To the minor, the minor's parent, including those acting as a parent as defined in RCW 71.34.020 for purposes of family-initiated treatment, and the minor's attorney, subject to RCW 13.50.100;

(4) To the courts as necessary to administer chapter 71.34 RCW;

(5) By a care coordinator under RCW 71.34.755 assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.34 RCW;

(6) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address must be disclosed upon request;

~~((6))~~ (7) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an authorized leave, and then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;

~~((7))~~ (8) To the secretary of social and health services and the director of the health care authority for assistance in data collection and program evaluation or research so long as the secretary or director, where applicable, adopts rules for the conduct of such evaluation and research. The rules must include, but need

not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, , agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding minors who have received services in a manner such that the minor is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law.

/s/";

~~((8))~~ (9) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

~~((9))~~ (10) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

~~((10))~~ (11) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

~~((11))~~ (12) Upon the death of a minor, to the minor's next of kin;

~~((12))~~ (13) To a facility in which the minor resides or will reside;

~~((13))~~ (14) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iv). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(iv);

(c) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

~~((14))~~ (15) This section may not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the director of the health care authority or the secretary of the department of social and health services, where applicable. The fact of admission and all information obtained pursuant to chapter 71.34 RCW are not admissible as evidence in any legal proceeding outside chapter 71.34 RCW, except guardianship or dependency, without the written consent of the minor or the minor's parent;

~~((15))~~ (16) For the purpose of a correctional facility participating in the postinstitutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in RCW 74.09.555 and 74.09.295;

~~((16))~~ (17) Pursuant to a lawful order of a court.

Sec. 19. RCW 71.05.425 and 2018 c 201 s 3019 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4) to the following:

(i) The chief of police of the city, if any, in which the person will reside;
 (ii) The sheriff of the county in which the person will reside; and
 (iii) The prosecuting attorney of the county in which the criminal charges against the committed person were dismissed.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(4)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings;
 (iii) Any person specified in writing by the prosecuting attorney. 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 person committed under this chapter; and

(iv) The chief of police of the city, if any, and the sheriff of the county, if any, which had jurisdiction of the person on the date of the applicable offense.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4) escapes, the superintendent 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 person escaped and in which the person resided immediately before the person's arrest and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(4) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW 70.02.230(2)((~~fn~~)) (o). If the person is recaptured, the superintendent 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 of social and health services learns of such recapture.

(3) 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 parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department of social and health services by the requesting party. The requesting party shall furnish the department of social and health services with a current address.

(5) 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) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

Sec. 20. RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301, and 2020 c 5 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program

certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to ~~to hospitals~~; Hospitals licensed under chapter 70.41 RCW ~~(7)~~; evaluation and treatment facilities as defined in this section ~~(5)~~; community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025 ~~(7)~~; licensed or certified behavioral health agencies under RCW 71.24.037; facilities conducting competency evaluations and restoration under chapter 10.77 RCW ~~(7)~~; approved substance use disorder treatment programs as defined in this section ~~(5)~~; secure withdrawal management and stabilization facilities as defined in this section ~~(7)~~; and correctional facilities operated by state and local governments;

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(10) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(11) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(12) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(13) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(14) "Department" means the department of health;

(15) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(16) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(17) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working

with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(18) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(19) "Director" means the director of the authority;

(20) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(21) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(22) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(23) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(24) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(25) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(26) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a behavioral health facility, or in confinement as a result of a criminal conviction;

(27) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(28) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a behavioral health disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

(29) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(30) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(31) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(32) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130;

(33) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585. This term includes: Treatment pursuant to a less restrictive alternative treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant to a conditional release under RCW 71.05.340; and treatment pursuant to an assisted outpatient behavioral health treatment order under RCW 71.05.148;

(34) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(35) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(36) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(37) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(38) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(39) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(40) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW;

(41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders;

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(51) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(52) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(53) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(54) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(55) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(56) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(57) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(58) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property(;

~~(59) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated crisis responder. Such orders shall be entered into the Washington crime information center database).~~

Sec. 21. RCW 71.05.020 and 2020 c 302 s 3, 2020 c 256 s 301, 2020 c 80 s 51, and 2020 c 5 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to (~~(;~~ hospitals)); Hospitals licensed under chapter 70.41 RCW(~~(;);~~); evaluation and treatment facilities as defined in this section(~~(;);~~); community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025(~~(;);~~); licensed or certified behavioral health agencies under RCW 71.24.037; facilities conducting competency evaluations and restoration under chapter 10.77 RCW(~~(;);~~); approved substance use disorder treatment programs as defined in this section(~~(;);~~); secure withdrawal management and stabilization facilities as defined in this section(~~(;);~~); and correctional facilities operated by state and local governments;

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(10) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(11) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(12) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(13) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(14) "Department" means the department of health;

(15) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and

conferring with an Indian health care provider, to perform the duties specified in this chapter;

(16) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(17) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(18) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(19) "Director" means the director of the authority;

(20) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(21) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(22) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(23) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(24) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(25) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(26) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a behavioral health facility, or in confinement as a result of a criminal conviction;

(27) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(28) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a behavioral health disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

(29) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(30) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(31) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(32) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130;

(33) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585. This term includes: Treatment pursuant to a less restrictive alternative treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant to a conditional release under RCW

71.05.340; and treatment pursuant to an assisted outpatient behavioral health treatment order under RCW 71.05.148;

(34) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(35) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(36) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(37) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(38) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(39) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(40) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW;

(41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders;

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical

association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(51) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(52) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(53) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(54) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually

diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(55) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(56) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(57) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(58) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property((;

~~(59) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated crisis responder. Such orders shall be entered into the Washington crime information center database)).~~

Sec. 22. RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020 c 256 s 301, and 2020 c 5 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if

use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to (~~(;~~ ~~hospitals~~); Hospitals licensed under chapter 70.41 RCW(~~(;);~~); evaluation and treatment facilities as defined in this section(~~(;);~~); community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025(~~(;);~~); licensed or certified behavioral health agencies under RCW 71.24.037; facilities conducting competency evaluations and restoration under chapter 10.77 RCW(~~(;);~~); approved substance use disorder treatment programs as defined in this section(~~(;);~~); secure withdrawal management and stabilization facilities as defined in this section(~~(;);~~); and correctional facilities operated by state and local governments;

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(10) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(11) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(12) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(13) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(14) "Department" means the department of health;

(15) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority

in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(16) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(17) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(18) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(19) "Director" means the director of the authority;

(20) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(21) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(22) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(23) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration from safe behavior evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(24) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(25) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(26) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a behavioral health facility, or in confinement as a result of a criminal conviction;

(27) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(28) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a behavioral health disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

(29) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(30) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(31) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(32) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130;

(33) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585. This term includes: Treatment pursuant to a less restrictive alternative treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant to a conditional release under RCW

71.05.340; and treatment pursuant to an assisted outpatient behavioral health treatment order under RCW 71.05.148;

(34) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(35) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused harm, substantial pain, or which places another person or persons in reasonable fear of harm to themselves or others; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(36) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(37) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(38) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(39) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(40) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW;

(41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders;

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical

association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(51) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior;

(52) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(53) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(54) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(55) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(56) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(57) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(58) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(59) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property((;

~~(60) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room as determined by the designated crisis responder. Such orders shall be entered into the Washington crime information center database).~~

Sec. 23. RCW 71.05.020 and 2020 c 302 s 4, 2020 c 302 s 3, 2020 c 256 s 301, 2020 c 80 s 51, and 2020 c 5 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Authority" means the Washington state health care authority;

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(8) "Behavioral health service provider" means a public or private agency that provides mental health, substance use disorder, or co-occurring disorder services to persons with behavioral health disorders as defined under this section and receives funding from public sources. This includes, but is not limited to (~~hospitals~~); Hospitals licensed under chapter 70.41 RCW(~~(5)~~); evaluation and treatment facilities as defined in this section(~~(5)~~); community mental health service delivery systems or community behavioral health programs as defined in RCW 71.24.025(~~(5)~~); licensed or certified behavioral health agencies under RCW 71.24.037; facilities conducting competency evaluations and restoration under chapter 10.77 RCW(~~(5)~~); approved substance use disorder treatment programs as defined in this section(~~(5)~~); secure withdrawal management and stabilization facilities as defined in this section(~~(5)~~); and correctional facilities operated by state and local governments;

(9) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105;

(10) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(11) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(12) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(13) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(14) "Department" means the department of health;

(15) "Designated crisis responder" means a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in this chapter;

(16) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(17) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department of social and health services;

(18) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(19) "Director" means the director of the authority;

(20) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(21) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(22) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is licensed or certified as such by the department. The authority may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(23) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration from safe behavior evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(24) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative

services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(25) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.05.820;

(26) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a behavioral health facility, or in confinement as a result of a criminal conviction;

(27) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(28) "In need of assisted outpatient behavioral health treatment" means that a person, as a result of a behavioral health disorder: (a) Has been committed by a court to detention for involuntary behavioral health treatment during the preceding thirty-six months; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, based on a history of nonadherence with treatment or in view of the person's current behavior; (c) is likely to benefit from less restrictive alternative treatment; and (d) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time;

(29) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(30) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(31) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(32) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal

representatives of public behavioral health service providers under RCW 71.05.130;

(33) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585. This term includes: Treatment pursuant to a less restrictive alternative treatment order under RCW 71.05.240 or 71.05.320; treatment pursuant to a conditional release under RCW 71.05.340; and treatment pursuant to an assisted outpatient behavioral health treatment order under RCW 71.05.148;

(34) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(35) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused harm, substantial pain, or which places another person or persons in reasonable fear of harm to themselves or others; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(36) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(37) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(38) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(39) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(40) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW;

(41) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders;

(42) "Professional person" means a mental health professional, substance use disorder professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(43) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(44) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(45) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(46) "Public agency" means any evaluation and treatment facility or institution, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with behavioral health disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(47) "Release" means legal termination of the commitment under the provisions of this chapter;

(48) "Resource management services" has the meaning given in chapter 71.24 RCW;

(49) "Secretary" means the secretary of the department of health, or his or her designee;

(50) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health;

(51) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior;

(52) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(53) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(54) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW;

(55) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(56) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for behavioral health disorders, which are maintained by the department of social and health services, the department, the authority, behavioral health administrative services organizations and their staffs, managed care organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department of social and health services, the department, the authority, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others;

(57) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(58) "Video," unless the context clearly indicates otherwise, means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology. "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment;

(59) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property((;

~~(60) "Written order of apprehension" means an order of the court for a peace officer to deliver the named person in the order to a facility or emergency room~~

~~as determined by the designated crisis responder. Such orders shall be entered into the Washington crime information center database).~~

Sec. 24. 2020 c 302 s 110 (uncodified) is amended to read as follows:

(1) Sections 4 and 28 (~~(of this act)~~), chapter 302, Laws of 2020 and, until July 1, 2022, section 22 of this act and, beginning July 1, 2022, section 23 of this act take effect when monthly single-bed certifications authorized under RCW 71.05.745 fall below 200 reports for 3 consecutive months.

(2) The health care authority must provide written notice of the effective date of sections 4 and 28 (~~(of this act)~~), chapter 302, Laws of 2020 and sections 22 and 23 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 authority.

Sec. 25. RCW 71.34.020 and 2020 c 302 s 63, 2020 c 274 s 50, and 2020 c 185 s 2 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a minor should be examined or treated as a patient in a hospital.

(2) "Adolescent" means a minor thirteen years of age or older.

(3) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(4) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to, atypical antipsychotic medications.

(5) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(6) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a minor patient.

(7) "Authority" means the Washington state health care authority.

(8) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(9) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder.

(10) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(11) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(12) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(13) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms.

(14) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

(15) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, such as a residential treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization.

(16) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

(17) "Department" means the department of social and health services.

(18) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(19) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter.

(20) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department.

(21) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

(22) "Director" means the director of the authority.

(23) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(24) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or

facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(25) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(26) "Gravely disabled minor" means a minor who, as a result of a behavioral health disorder, (a) is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(27) "Habilitative services" means those services provided by program personnel to assist minors in acquiring and maintaining life skills and in raising their levels of physical, behavioral, social, and vocational functioning. Habilitative services include education, training for employment, and therapy.

(28) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.34.910.

(29) "History of one or more violent acts" refers to the period of time five years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term (~~alcoholism or drug~~) substance use disorder treatment facility, or in confinement as a result of a criminal conviction.

(30) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which states:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

(31)(a) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure withdrawal management and stabilization facility for minors, or approved substance use disorder treatment program for minors.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "inpatient treatment" has the meaning included in (a) of this

subsection and any other residential treatment facility licensed under chapter 71.12 RCW.

(32) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(33) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter.

(34) "Kinship caregiver" has the same meaning as in RCW 74.13.031(19)(a).

(35) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130.

(36) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor (~~who is not residing in a facility providing inpatient treatment as defined in this chapter~~) as a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.34.755, including residential treatment.

(37) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(38) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a minor upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a minor upon another individual, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a minor upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The minor has threatened the physical safety of another and has a history of one or more violent acts.

(39) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

(40) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder.

(41) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a mental disorder or substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a disability, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(42) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(43) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, social worker, and such other mental health professionals as defined by rules adopted by the secretary of the department of health under this chapter.

(44) "Minor" means any person under the age of eighteen years.

(45) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified behavioral health agencies as identified by RCW 71.24.025.

(46)(a) "Parent" has the same meaning as defined in RCW 26.26A.010, including either parent if custody is shared under a joint custody agreement, or a person or agency judicially appointed as legal guardian or custodian of the child.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person to whom a parent defined in (a) of this subsection has given a signed authorization to make health care decisions for the adolescent, a stepparent who is involved in caring for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or another relative who is responsible for the health care of the adolescent, who may be required to provide a declaration under penalty of perjury stating that he or she is a relative responsible for the health care of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises between individuals authorized to act as a parent for the purpose of RCW 71.34.600 through 71.34.670, the disagreement must be resolved according to the priority established under RCW 7.70.065(2)(a).

(47) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

(48) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

(49) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(50) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(51) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(52) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(53) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(54) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(55) "Release" means legal termination of the commitment under the provisions of this chapter.

(56) "Resource management services" has the meaning given in chapter 71.24 RCW.

(57) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(58) "Secretary" means the secretary of the department or secretary's designee.

(59) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health.

(60) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(61) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(62) "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service

provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment.

~~((63))~~ (63) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

~~((63))~~ (64) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW.

~~((64))~~ (65) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties.

~~((65))~~ (66) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, the department of health, the authority, behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, the department of health, the authority, behavioral health organizations, or a treatment facility if the notes or records are not available to others.

~~((66))~~ (67) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility.

~~((67))~~ (68) "Video" means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology.

(69) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

~~((68) "Written order of apprehension" means an order of the court for a peace officer to deliver the named minor in the order to a facility or emergency room as determined by the designated crisis responder. Such orders must be entered into the Washington crime information center database.)~~

Sec. 26. RCW 71.34.020 and 2020 c 302 s 63, 2020 c 274 s 50, 2020 c 185 s 2, and 2020 c 80 s 54 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a minor should be examined or treated as a patient in a hospital.

(2) "Adolescent" means a minor thirteen years of age or older.

(3) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(4) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to, atypical antipsychotic medications.

(5) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(6) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a minor patient.

(7) "Authority" means the Washington state health care authority.

(8) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(9) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder.

(10) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(11) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(12) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(13) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms.

(14) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

(15) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, such as a residential treatment facility or a hospital, which has been designed to

assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization.

(16) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

(17) "Department" means the department of social and health services.

(18) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(19) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter.

(20) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department.

(21) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

(22) "Director" means the director of the authority.

(23) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(24) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(25) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(26) "Gravely disabled minor" means a minor who, as a result of a behavioral health disorder, (a) is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(27) "Habilitative services" means those services provided by program personnel to assist minors in acquiring and maintaining life skills and in raising their levels of physical, behavioral, social, and vocational functioning. Habilitative services include education, training for employment, and therapy.

(28) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.34.910.

(29) "History of one or more violent acts" refers to the period of time five years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term ~~((alcoholism or drug))~~ substance use disorder treatment facility, or in confinement as a result of a criminal conviction.

(30) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which states:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

(31)(a) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure withdrawal management and stabilization facility for minors, or approved substance use disorder treatment program for minors.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "inpatient treatment" has the meaning included in (a) of this subsection and any other residential treatment facility licensed under chapter 71.12 RCW.

(32) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(33) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter.

(34) "Kinship caregiver" has the same meaning as in RCW 74.13.031(19)(a).

(35) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130.

(36) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor ~~((who is not residing in a facility providing inpatient treatment as defined in this chapter))~~ as a program of individualized treatment in a less restrictive setting than inpatient treatment that

includes the services described in RCW 71.34.755, including residential treatment.

(37) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(38) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a minor upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a minor upon another individual, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a minor upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The minor has threatened the physical safety of another and has a history of one or more violent acts.

(39) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

(40) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder.

(41) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a mental disorder or substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a disability, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(42) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(43) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, social worker, and such other mental health professionals as defined by rules adopted by the secretary of the department of health under this chapter.

(44) "Minor" means any person under the age of eighteen years.

(45) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified behavioral health agencies as identified by RCW 71.24.025.

(46)(a) "Parent" has the same meaning as defined in RCW 26.26A.010, including either parent if custody is shared under a joint custody agreement, or a person or agency judicially appointed as legal guardian or custodian of the child.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person to whom a parent defined in (a) of this subsection has given a signed authorization to make health care decisions for the adolescent, a stepparent who is involved in caring for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or

another relative who is responsible for the health care of the adolescent, who may be required to provide a declaration under penalty of perjury stating that he or she is a relative responsible for the health care of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises between individuals authorized to act as a parent for the purpose of RCW 71.34.600 through 71.34.670, the disagreement must be resolved according to the priority established under RCW 7.70.065(2)(a).

(47) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

(48) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW.

(49) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(50) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(51) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(52) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(53) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(54) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(55) "Release" means legal termination of the commitment under the provisions of this chapter.

(56) "Resource management services" has the meaning given in chapter 71.24 RCW.

(57) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(58) "Secretary" means the secretary of the department or secretary's designee.

(59) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health.

(60) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(61) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(62) "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment.

(63) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

~~((63))~~ (64) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW.

~~((64))~~ (65) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties.

~~((65))~~ (66) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services

for mental illness, which are maintained by the department, the department of health, the authority, behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, the department of health, the authority, behavioral health organizations, or a treatment facility if the notes or records are not available to others.

~~((66))~~ (67) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility.

~~((67))~~ (68) "Video" means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology.

(69) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

~~((68) "Written order of apprehension" means an order of the court for a peace officer to deliver the named minor in the order to a facility or emergency room as determined by the designated crisis responder. Such orders must be entered into the Washington crime information center database.)~~

Sec. 27. RCW 71.34.020 and 2020 c 302 s 64, 2020 c 302 s 63, 2020 c 274 s 50, and 2020 c 185 s 2 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a minor should be examined or treated as a patient in a hospital.

(2) "Adolescent" means a minor thirteen years of age or older.

(3) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(4) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to, atypical antipsychotic medications.

(5) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(6) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a minor patient.

(7) "Authority" means the Washington state health care authority.

(8) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(9) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder.

(10) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(11) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(12) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(13) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms.

(14) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

(15) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, such as a residential treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization.

(16) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

(17) "Department" means the department of social and health services.

(18) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(19) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter.

(20) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department.

(21) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

(22) "Director" means the director of the authority.

(23) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(24) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(25) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(26) "Gravely disabled minor" means a minor who, as a result of a behavioral health disorder, (a) is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or (b) manifests severe deterioration from safe behavior evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(27) "Habilitative services" means those services provided by program personnel to assist minors in acquiring and maintaining life skills and in raising their levels of physical, behavioral, social, and vocational functioning. Habilitative services include education, training for employment, and therapy.

(28) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.34.910.

(29) "History of one or more violent acts" refers to the period of time five years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term ~~(alcoholism or drug)~~ substance use disorder treatment facility, or in confinement as a result of a criminal conviction.

(30) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which states:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings,

criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

(31)(a) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure withdrawal management and stabilization facility for minors, or approved substance use disorder treatment program for minors.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "inpatient treatment" has the meaning included in (a) of this subsection and any other residential treatment facility licensed under chapter 71.12 RCW.

(32) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(33) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter.

(34) "Kinship caregiver" has the same meaning as in RCW 74.13.031(19)(a).

(35) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130.

(36) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor (~~(who is not residing in a facility providing inpatient treatment as defined in this chapter)~~) as a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.34.755, including residential treatment.

(37) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(38) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a minor upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a minor upon another individual, as evidenced by behavior which has caused harm, substantial pain, or which places another person or persons in reasonable fear of harm to themselves or others; or (iii) physical harm will be inflicted by a minor upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The minor has threatened the physical safety of another and has a history of one or more violent acts.

(39) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

(40) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder.

(41) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a mental disorder or substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a disability, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(42) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(43) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, social worker, and such other mental health professionals as defined by rules adopted by the secretary of the department of health under this chapter.

(44) "Minor" means any person under the age of eighteen years.

(45) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified behavioral health agencies as identified by RCW 71.24.025.

(46)(a) "Parent" has the same meaning as defined in RCW 26.26A.010, including either parent if custody is shared under a joint custody agreement, or a person or agency judicially appointed as legal guardian or custodian of the child.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person to whom a parent defined in (a) of this subsection has given a signed authorization to make health care decisions for the adolescent, a stepparent who is involved in caring for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or another relative who is responsible for the health care of the adolescent, who may be required to provide a declaration under penalty of perjury stating that he or she is a relative responsible for the health care of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises between individuals authorized to act as a parent for the purpose of RCW 71.34.600 through 71.34.670, the disagreement must be resolved according to the priority established under RCW 7.70.065(2)(a).

(47) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

(48) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

(49) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(50) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(51) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(52) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(53) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(54) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(55) "Release" means legal termination of the commitment under the provisions of this chapter.

(56) "Resource management services" has the meaning given in chapter 71.24 RCW.

(57) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(58) "Secretary" means the secretary of the department or secretary's designee.

(59) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health.

(60) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior.

(61) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(62) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(63) "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment.

(64) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

~~((64))~~ (65) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW.

~~((65))~~ (66) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties.

~~((66))~~ (67) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, the department of health, the authority, behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, the department of health, the authority, behavioral health organizations, or a treatment facility if the notes or records are not available to others.

~~((67))~~ (68) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility.

~~((68))~~ (69) "Video" means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology.

(70) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

~~((69))~~ "Written order of apprehension" means an order of the court for a peace officer to deliver the named minor in the order to a facility or emergency room as determined by the designated crisis responder. Such orders must be entered into the Washington crime information center database.)

Sec. 28. RCW 71.34.020 and 2020 c 302 s 64, 2020 c 302 s 63, 2020 c 274 s 50, 2020 c 185 s 2, and 2020 c 80 s 54 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) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a minor should be examined or treated as a patient in a hospital.

(2) "Adolescent" means a minor thirteen years of age or older.

(3) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(4) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to, atypical antipsychotic medications.

(5) "Approved substance use disorder treatment program" means a program for minors with substance use disorders provided by a treatment program licensed or certified by the department of health as meeting standards adopted under chapter 71.24 RCW.

(6) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a minor patient.

(7) "Authority" means the Washington state health care authority.

(8) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(9) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder.

(10) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(11) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(12) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(13) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms.

(14) "Co-occurring disorder specialist" means an individual possessing an enhancement granted by the department of health under chapter 18.205 RCW that certifies the individual to provide substance use disorder counseling subject to the practice limitations under RCW 18.205.105.

(15) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, such as a residential treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization.

(16) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

(17) "Department" means the department of social and health services.

(18) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(19) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter.

(20) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary of the department.

(21) "Developmental disability" has the same meaning as defined in RCW 71A.10.020.

(22) "Director" means the director of the authority.

(23) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(24) "Evaluation and treatment facility" means a public or private facility or unit that is licensed or certified by the department of health to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the state or federal agency does not require licensure or certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(25) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(26) "Gravely disabled minor" means a minor who, as a result of a behavioral health disorder, (a) is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety, or (b) manifests severe deterioration from safe behavior evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(27) "Habilitative services" means those services provided by program personnel to assist minors in acquiring and maintaining life skills and in raising their levels of physical, behavioral, social, and vocational functioning. Habilitative services include education, training for employment, and therapy.

(28) "Hearing" means any proceeding conducted in open court that conforms to the requirements of RCW 71.34.910.

(29) "History of one or more violent acts" refers to the period of time five years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term (~~alcoholism or drug~~) substance use disorder treatment facility, or in confinement as a result of a criminal conviction.

(30) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which states:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

(31)(a) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, residential treatment facility licensed or certified by the department of health as an evaluation and treatment facility for minors, secure withdrawal management and stabilization facility for minors, or approved substance use disorder treatment program for minors.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "inpatient treatment" has the meaning included in (a) of this subsection and any other residential treatment facility licensed under chapter 71.12 RCW.

(32) "Intoxicated minor" means a minor whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(33) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter.

(34) "Kinship caregiver" has the same meaning as in RCW 74.13.031(19)(a).

(35) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public behavioral health service providers under RCW 71.05.130.

(36) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor (~~who is not residing in a facility providing inpatient treatment as defined in this chapter~~) as a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.34.755, including residential treatment.

(37) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(38) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a minor upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a minor upon another individual, as evidenced by behavior which has caused harm, substantial pain, or which places another person or persons in reasonable fear of harm to themselves or others; or (iii) physical harm will be inflicted by a minor upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The minor has threatened the physical safety of another and has a history of one or more violent acts.

(39) "Managed care organization" has the same meaning as provided in RCW 71.24.025.

(40) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder.

(41) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder or substance use disorder; or (b) prevent the progression of a mental disorder or substance use disorder that endangers life or causes suffering and pain, or results in illness or infirmity or threatens to cause or aggravate a disability, or causes physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(42) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(43) "Mental health professional" means a psychiatrist, psychiatric advanced registered nurse practitioner, physician assistant working with a

supervising psychiatrist, psychologist, psychiatric nurse, social worker, and such other mental health professionals as defined by rules adopted by the secretary of the department of health under this chapter.

(44) "Minor" means any person under the age of eighteen years.

(45) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed or certified behavioral health agencies as identified by RCW 71.24.025.

(46)(a) "Parent" has the same meaning as defined in RCW 26.26A.010, including either parent if custody is shared under a joint custody agreement, or a person or agency judicially appointed as legal guardian or custodian of the child.

(b) For purposes of family-initiated treatment under RCW 71.34.600 through 71.34.670, "parent" also includes a person to whom a parent defined in (a) of this subsection has given a signed authorization to make health care decisions for the adolescent, a stepparent who is involved in caring for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or another relative who is responsible for the health care of the adolescent, who may be required to provide a declaration under penalty of perjury stating that he or she is a relative responsible for the health care of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises between individuals authorized to act as a parent for the purpose of RCW 71.34.600 through 71.34.670, the disagreement must be resolved according to the priority established under RCW 7.70.065(2)(a).

(47) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

(48) "Physician assistant" means a person licensed as a physician assistant under chapter 18.71A RCW.

(49) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders.

(50) "Professional person in charge" or "professional person" means a physician, other mental health professional, or other person empowered by an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program with authority to make admission and discharge decisions on behalf of that facility.

(51) "Psychiatric nurse" means a registered nurse who has experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional.

(52) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(53) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(54) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved substance use disorder treatment program that is conducted for, or includes a distinct unit, floor, or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(55) "Release" means legal termination of the commitment under the provisions of this chapter.

(56) "Resource management services" has the meaning given in chapter 71.24 RCW.

(57) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(58) "Secretary" means the secretary of the department or secretary's designee.

(59) "Secure withdrawal management and stabilization facility" means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals and individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder. Secure withdrawal management and stabilization facilities must:

(a) Provide the following services:

(i) Assessment and treatment, provided by certified substance use disorder professionals or co-occurring disorder specialists;

(ii) Clinical stabilization services;

(iii) Acute or subacute detoxification services for intoxicated individuals; and

(iv) Discharge assistance provided by certified substance use disorder professionals or co-occurring disorder specialists, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Include security measures sufficient to protect the patients, staff, and community; and

(c) Be licensed or certified as such by the department of health.

(60) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior.

(61) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

~~((61))~~ (62) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

~~((62))~~ (63) "Store and forward technology" means use of an asynchronous transmission of a person's medical information from a mental health service provider to the designated crisis responder which results in medical diagnosis, consultation, or treatment.

(64) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

~~((63))~~ (65) "Substance use disorder professional" means a person certified as a substance use disorder professional by the department of health under chapter 18.205 RCW.

~~((64) "Severe deterioration from safe behavior" means that a person will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior.~~

(65)) (66) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties.

~~((66))~~ (67) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, the department of health, the authority, behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, the department of health, the authority, behavioral health organizations, or a treatment facility if the notes or records are not available to others.

~~((67))~~ (68) "Triage facility" means a short-term facility or a portion of a facility licensed or certified by the department of health under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility.

~~((68))~~ (69) "Video" means the delivery of behavioral health services through the use of interactive audio and video technology, permitting real-time communication between a person and a designated crisis responder, for the purpose of evaluation. "Video" does not include the use of audio-only telephone, facsimile, email, or store and forward technology.

(70) "Violent act" means behavior that resulted in homicide, attempted suicide, injury, or substantial loss or damage to property.

~~((69) "Written order of apprehension" means an order of the court for a peace officer to deliver the named minor in the order to a facility or emergency room as determined by the designated crisis responder. Such orders must be entered into the Washington crime information center database.))~~

Sec. 29. 2020 c 302 s 111 (uncodified) is amended to read as follows:

(1) Sections 64 and 81 (~~(of this act)~~), chapter 302, Laws of 2020 and, until July 1, 2022, section 27 of this act and, beginning July 1, 2022, section 28 of this act take effect when the average wait time for children's long-term inpatient placement admission is 30 days or less for two consecutive quarters.

(2) The health care authority must provide written notice of the effective date of sections 64 and 81 (~~(of this act)~~), chapter 302, Laws of 2020 and sections 27 and 28 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 authority.

Sec. 30. RCW 71.34.705 and 2020 c 302 s 80 are each amended to read as follows:

(1) Whenever a designated crisis responder or professional person is conducting an evaluation under this chapter, the designated crisis responder or professional person must consider all reasonably available information from credible witnesses and records regarding:

- (a) Historical behavior, including history of one or more violent acts; and
- (b) Prior commitments under this chapter.

(2) Credible witnesses may include family members, landlords, neighbors, teachers, school personnel, or others with significant contact and history of involvement with the minor. If the designated crisis responder relies upon information from a credible witness in reaching his or her decision to detain the minor, then he or she must provide contact information for any such witness to the prosecutor. The designated crisis responder or prosecutor shall provide notice of the date, time, and location of the probable cause hearing to such a witness.

(3) Symptoms and behavior of the minor which standing alone would not justify civil commitment may support a finding of grave disability or likelihood of serious harm, when:

(a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts;

(b) These symptoms or behavior represent a marked and concerning change in the baseline behavior of the minor; and

(c) Without treatment, the continued deterioration of the minor is probable.

(4) The authority, in consultation with tribes and in coordination with Indian health care providers and the American Indian health commission of Washington state, shall establish written guidelines by June 30, 2022, for conducting culturally appropriate evaluations of American Indians or Alaska Natives.

Sec. 31. RCW 71.34.710 and 2020 c 302 s 83 are each amended to read as follows:

(1)(a) When a designated crisis responder receives information that an adolescent as a result of a behavioral health disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the adolescent, or cause the adolescent to

be taken, into custody and transported to an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program providing inpatient treatment.

A secure withdrawal management and stabilization facility or approved substance use disorder treatment program must be available and have adequate space for the adolescent.

(b) If a designated crisis responder decides not to detain an adolescent for evaluation and treatment under RCW 71.34.700(2), or forty-eight hours have elapsed since a designated crisis responder received a request for investigation and the designated crisis responder has not taken action to have the adolescent detained, an immediate family member or guardian or conservator of the adolescent, or a federally recognized Indian tribe if the person is a member of such tribe, may petition the superior court for the adolescent's detention using the procedures under RCW 71.05.201 and 71.05.203; however, when the court enters an order of initial detention, except as otherwise expressly stated in this chapter, all procedures must be followed as if the order has been entered under (a) of this subsection.

(c) The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview.

(2)(a) Within twelve hours of the adolescent's arrival at the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, the designated crisis responder shall serve or cause to be served on the adolescent a copy of the petition for initial detention, notice of initial detention, and statement of rights. The designated crisis responder shall file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service. The designated crisis responder shall commence service of the petition for initial detention and notice of the initial detention on the adolescent's parent and the adolescent's attorney as soon as possible following the initial detention.

(b) ~~((If the adolescent is involuntarily detained at an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program in a different county from where the adolescent was initially detained, the))~~ The facility or program may serve the adolescent, notify the adolescent's parents and the adolescent's attorney, and file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service when filing with the court at the request of the designated crisis responder.

(3)(a) At the time of initial detention, the designated crisis responder shall advise the adolescent both orally and in writing that if admitted to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program for inpatient treatment, a commitment hearing shall be held within one hundred twenty hours of the adolescent's provisional acceptance to determine whether probable cause exists to commit the adolescent for further treatment.

(b) The adolescent shall be advised that he or she has a right to communicate immediately with an attorney and that he or she has a right to have an attorney appointed to represent him or her before and at the hearing if the adolescent is indigent.

(4) Subject to subsection (5) of this section, whenever the designated crisis responder petitions for detention of an adolescent under this chapter, an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program providing one hundred twenty hour evaluation and treatment must immediately accept on a provisional basis the petition and the person. Within twenty-four hours of the adolescent's arrival, the facility must evaluate the adolescent's condition and either admit or release the adolescent in accordance with this chapter.

(5) A designated crisis responder may not petition for detention of an adolescent to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program unless there is a secure withdrawal management and stabilization facility or approved substance use disorder treatment program available and that has adequate space for the adolescent.

(6) If an adolescent is not approved for admission by the inpatient evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, the facility shall make such recommendations and referrals for further care and treatment of the adolescent as necessary.

(7) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section, based on the purpose of this chapter under RCW 71.34.010, except in the few cases where the facility staff or the designated crisis responder have totally disregarded the requirements of this section.

(8) Tribal court orders for involuntary commitment shall be recognized and enforced in accordance with superior court civil rule 82.5.

(9) In any investigation and evaluation of a juvenile under this section in which the designated crisis responder knows, or has reason to know, that the juvenile is an American Indian or Alaska Native who receives medical or behavioral health services from a tribe within this state, the designated crisis responder shall notify the tribe and the Indian health care provider regarding whether or not a petition for initial detention or involuntary outpatient treatment will be filed. Notification shall be made in person or by telephonic or electronic communication to the tribal contact listed in the authority's tribal crisis coordination plan as soon as possible but no later than three hours subject to the requirements in RCW 70.02.230 (2)(ee) and (3). A designated crisis responder may restrict the release of information as necessary to comply with 42 C.F.R. Part 2.

Sec. 32. RCW 71.34.710 and 2020 c 302 s 84 are each amended to read as follows:

(1)(a) When a designated crisis responder receives information that an adolescent as a result of a behavioral health disorder presents a likelihood of serious harm or is gravely disabled, has investigated the specific facts alleged and of the credibility of the person or persons providing the information, and has

determined that voluntary admission for inpatient treatment is not possible, the designated crisis responder may take the adolescent, or cause the adolescent to be taken, into custody and transported to an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program providing inpatient treatment.

(b) If a designated crisis responder decides not to detain an adolescent for evaluation and treatment under RCW 71.34.700(2), or forty-eight hours have elapsed since a designated crisis responder received a request for investigation and the designated crisis responder has not taken action to have the adolescent detained, an immediate family member or guardian or conservator of the adolescent, or a federally recognized Indian tribe if the person is a member of such tribe, may petition the superior court for the adolescent's detention using the procedures under RCW 71.05.201 and 71.05.203; however, when the court enters an order of initial detention, except as otherwise expressly stated in this chapter, all procedures must be followed as if the order has been entered under (a) of this subsection.

(c) The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview.

(2)(a) Within twelve hours of the adolescent's arrival at the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, the designated crisis responder shall serve or cause to be served on the adolescent a copy of the petition for initial detention, notice of initial detention, and statement of rights. The designated crisis responder shall file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service. The designated crisis responder shall commence service of the petition for initial detention and notice of the initial detention on the adolescent's parent and the adolescent's attorney as soon as possible following the initial detention.

(b) ~~((If the adolescent is involuntarily detained at an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program in a different county from where the adolescent was initially detained, the))~~ The facility or program may serve the adolescent, notify the adolescent's parents and the adolescent's attorney, and file with the court on the next judicial day following the initial detention the original petition for initial detention, notice of initial detention, and statement of rights along with an affidavit of service when filing with the court at the request of the designated crisis responder.

(3)(a) At the time of initial detention, the designated crisis responder shall advise the adolescent both orally and in writing that if admitted to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program for inpatient treatment, a commitment hearing shall be held within one hundred twenty hours of the adolescent's provisional acceptance to determine whether probable cause exists to commit the adolescent for further treatment.

(b) The adolescent shall be advised that he or she has a right to communicate immediately with an attorney and that he or she has a right to have

an attorney appointed to represent him or her before and at the hearing if the adolescent is indigent.

(4) Whenever the designated crisis responder petitions for detention of an adolescent under this chapter, an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program providing one hundred twenty hour evaluation and treatment must immediately accept on a provisional basis the petition and the person. Within twenty-four hours of the adolescent's arrival, the facility must evaluate the adolescent's condition and either admit or release the adolescent in accordance with this chapter.

(5) If an adolescent is not approved for admission by the inpatient evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, the facility shall make such recommendations and referrals for further care and treatment of the adolescent as necessary.

(6) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section, based on the purpose of this chapter under RCW 71.34.010, except in the few cases where the facility staff or the designated crisis responder have totally disregarded the requirements of this section.

(7) Tribal court orders for involuntary commitment shall be recognized and enforced in accordance with superior court civil rule 82.5.

(8) In any investigation and evaluation of a juvenile under this section in which the designated crisis responder knows, or has reason to know, that the juvenile is an American Indian or Alaska Native who receives medical or behavioral health services from a tribe within this state, the designated crisis responder shall notify the tribe and the Indian health care provider regarding whether or not a petition for initial detention or involuntary outpatient treatment will be filed. Notification shall be made in person or by telephonic or electronic communication to the tribal contact listed in the authority's tribal crisis coordination plan as soon as possible but no later than three hours subject to the requirements in RCW 70.02.230 (2)(ee) and (3). A designated crisis responder may restrict the release of information as necessary to comply with 42 C.F.R. Part 2.

Sec. 33. RCW 71.34.720 and 2020 c 302 s 86 are each amended to read as follows:

(1) Each minor approved by the facility for inpatient admission shall be examined and evaluated by a children's mental health specialist, for minors admitted as a result of a mental disorder, or by a substance use disorder professional or co-occurring disorder specialist, for minors admitted as a result of a substance use disorder, as to the child's mental condition and by a physician, physician assistant, or psychiatric advanced registered nurse practitioner as to the child's physical condition within twenty-four hours of admission. Reasonable measures shall be taken to ensure medical treatment is provided for any condition requiring immediate medical attention.

(2) If, ~~((after))~~ at any time during the involuntary treatment hold and following the initial examination and evaluation, the children's mental health specialist or substance use disorder specialist and the physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the

initial needs of the minor, if detained to an evaluation and treatment facility, would be better served by placement in a secure withdrawal management and stabilization facility or approved substance use disorder treatment program or, if detained to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility, then the minor shall be referred to the more appropriate placement for the remainder of the current commitment period without any need for further court review; however a minor may only be referred to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program if there is a secure withdrawal management and stabilization facility or approved substance use disorder treatment program available and that has adequate space for the minor.

(3) The admitting facility shall take reasonable steps to notify immediately the minor's parent of the admission.

(4) During the initial one hundred twenty hour treatment period, the minor has a right to associate or receive communications from parents or others unless the professional person in charge determines that such communication would be seriously detrimental to the minor's condition or treatment and so indicates in the minor's clinical record, and notifies the minor's parents of this determination. A minor must not be denied the opportunity to consult an attorney unless there is an immediate risk of harm to the minor or others.

(5) If the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program admits the minor, it may detain the minor for evaluation and treatment for a period not to exceed one hundred twenty hours from the time of provisional acceptance. The computation of such one hundred twenty hour period shall exclude Saturdays, Sundays, and holidays. This initial treatment period shall not exceed one hundred twenty hours except when an application for voluntary inpatient treatment is received or a petition for fourteen-day commitment is filed.

(6) Within twelve hours of the admission, the facility shall advise the minor of his or her rights as set forth in this chapter.

Sec. 34. RCW 71.34.720 and 2020 c 302 s 87 are each amended to read as follows:

(1) Each minor approved by the facility for inpatient admission shall be examined and evaluated by a children's mental health specialist, for minors admitted as a result of a mental disorder, or by a substance use disorder professional or co-occurring disorder specialist, for minors admitted as a result of a substance use disorder, as to the child's mental condition and by a physician, physician assistant, or psychiatric advanced registered nurse practitioner as to the child's physical condition within twenty-four hours of admission. Reasonable measures shall be taken to ensure medical treatment is provided for any condition requiring immediate medical attention.

(2) If, ~~((after))~~ at any time during the involuntary treatment hold and following the initial examination and evaluation, the children's mental health specialist or substance use disorder specialist and the physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the minor, if detained to an evaluation and treatment facility, would be better served by placement in a secure withdrawal management and

stabilization facility or approved substance use disorder treatment program or, if detained to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility, then the minor shall be referred to the more appropriate placement for the remainder of the current commitment period without any need for further court review.

(3) The admitting facility shall take reasonable steps to notify immediately the minor's parent of the admission.

(4) During the initial one hundred twenty hour treatment period, the minor has a right to associate or receive communications from parents or others unless the professional person in charge determines that such communication would be seriously detrimental to the minor's condition or treatment and so indicates in the minor's clinical record, and notifies the minor's parents of this determination. A minor must not be denied the opportunity to consult an attorney unless there is an immediate risk of harm to the minor or others.

(5) If the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program admits the minor, it may detain the minor for evaluation and treatment for a period not to exceed one hundred twenty hours from the time of provisional acceptance. The computation of such one hundred twenty hour period shall exclude Saturdays, Sundays, and holidays. This initial treatment period shall not exceed one hundred twenty hours except when an application for voluntary inpatient treatment is received or a petition for fourteen-day commitment is filed.

(6) Within twelve hours of the admission, the facility shall advise the minor of his or her rights as set forth in this chapter.

NEW SECTION. Sec. 35. Sections 1, 3, 6, 8, 10, 14, 31, and 33 of this act expire July 1, 2026.

NEW SECTION. Sec. 36. Sections 2, 4, 7, 9, 11, 15, 32, and 34 of this act take effect July 1, 2026.

NEW SECTION. Sec. 37. Sections 20 and 25 of this act expire July 1, 2022.

NEW SECTION. Sec. 38. Sections 21 and 26 of this act take effect July 1, 2022.

NEW SECTION. Sec. 39. Sections 25, 27, and 31 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 40. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 14, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 265

[Engrossed Substitute Senate Bill 5118]

JUVENILE REHABILITATION—REENTRY—VARIOUS PROVISIONS

AN ACT Relating to supporting successful reentry; amending RCW 9.98.010; reenacting and amending RCW 36.70A.200; and adding a new section to chapter 13.40 RCW.

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

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

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

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

(b) Proceedings related to competency to stand trial on the pending charge, from the entry of an evaluation order to the entry of a court order finding the person competent to proceed; and

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

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

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

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

~~((2))~~ (5) The written notice and request for final disposition referred to in subsection (1) of this section shall be given or sent by the ~~((prisoner))~~ person to the superintendent or the superintendent's designee having custody of him or her,

who shall promptly forward it together with the certificate to the appropriate prosecuting attorney and superior, district, municipal, or juvenile court by certified mail, return receipt requested.

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

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

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

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

(b) Unless a facility is expressly listed in (a) of this subsection, essential public facilities do not include facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings but are not used for punishment, correction, counseling, or rehabilitation following the conviction of a criminal offense. Facilities included under this subsection (1)(b) shall not include facilities detaining persons under RCW 71.09.020 (6) or (15) or chapter 10.77 or 71.05 RCW.

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

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

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

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the

next six years. The office of financial management may at any time add facilities to the list.

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

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

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

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

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

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

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

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

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

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

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

Passed by the Senate April 19, 2021.

Passed by the House April 8, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 266

[Engrossed Substitute Senate Bill 5121]

GRADUATED REENTRY PROGRAM—PARTICIPATION ELIGIBILITY

AN ACT Relating to expanding eligibility for the graduated reentry program; amending RCW 9.94A.733 and 9.94A.728; and creating a new section.

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

Sec. 1. RCW 9.94A.733 and 2018 c 166 s 1 are each amended to read as follows:

~~(1) ((No more than the final six months of the offender's term of confinement may be served in partial confinement as home detention as part of the graduated reentry program developed by the department. However, an offender may not participate in the graduated reentry program under this section unless he or she has served at least twelve months in total confinement in a state correctional facility.))~~ (a) Except as provided in (b) of this subsection, an offender may not participate in the graduated reentry program under this subsection unless he or she has served at least six months in total confinement in a state correctional facility.

(i) An offender subject to (a) of this subsection may serve no more than the final five months of the offender's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department.

(ii) Home detention under (a) of this subsection may not be imposed for individuals subject to a deportation order, civil commitment, or the interstate compact for adult offender supervision under RCW 9.94A.745.

(b) For offenders who meet the requirements of (b)(iii) of this subsection, an offender may not participate in the graduated reentry program unless he or she has served at least four months in total confinement in a state correctional facility.

(i) An offender under this subsection (1)(b) may serve no more than the final 18 months of the offender's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department.

(ii) Home detention under this subsection (1)(b) may not be imposed for individuals subject to a deportation order or subject to the jurisdiction of the indeterminate sentence review board.

(iii) Home detention under this subsection (1)(b) may not be imposed for offenders currently serving a term of confinement for the following offenses:

(A) Any sex offense;

(B) Any violent offense; or

(C) Any crime against a person offense in accordance with the categorization of crimes against persons outlined in RCW 9.94A.411(2).

(2) The secretary of the department may transfer an offender from a department correctional facility to home detention in the community if it is determined that the graduated reentry program is an appropriate placement and must assist the offender's transition from confinement to the community.

(3) The department and its officers, agents, and employees are not liable for the acts of offenders participating in the graduated reentry program unless the department or its officers, agents, and employees acted with willful and wanton disregard.

(4) All offenders placed on home detention as part of the graduated reentry program must provide an approved residence and living arrangement prior to transfer to home detention.

(5) While in the community on home detention as part of the graduated reentry program, the department must:

(a) Require the offender to be placed on electronic home monitoring;

(b) Require the offender to participate in programming and treatment that the department shall assign based on an offender's assessed need; and

(c) Assign a community corrections officer who will monitor the offender's compliance with conditions of partial confinement and programming requirements.

(6) The department retains the authority to return any offender serving partial confinement in the graduated reentry program to total confinement for any reason including, but not limited to, the offender's noncompliance with any sentence requirement.

(7) The department may issue rental vouchers for a period not to exceed six months for those transferring to partial confinement under this section if an approved address cannot be obtained without the assistance of a voucher.

(8) In the selection of offenders to participate in the graduated reentry program, and in setting, modifying, and enforcing the requirements of the graduated ~~((release [reentry]))~~ reentry program, the department is deemed to be performing a quasi-judicial function.

(9) The department shall publish a monthly report on its website with the number of offenders who were transferred during the month to home detention as part of the graduated reentry program. The department shall submit an annual report by December 1st to the appropriate committees of the legislature with the number of offenders who were transferred to home detention as part of the graduated reentry program during the prior year.

Sec. 2. RCW 9.94A.728 and 2018 c 166 s 2 are each amended to read as follows:

(1) No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(a) An offender may earn early release time as authorized by RCW 9.94A.729;

(b) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(c)(i) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(A) The offender has a medical condition that is serious and is expected to require costly care or treatment;

(B) The offender poses a low risk to the community because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so at the time of release; and

(C) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

(ii) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(iii) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the

loss of funding for the offender's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(iv) The secretary may revoke an extraordinary medical placement under this subsection (1)(c) at any time.

(v) Persistent offenders are not eligible for extraordinary medical placement;

(d) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(e) No more than the final twelve months of the offender's term of confinement may be served in partial confinement for aiding the offender with: Finding work as part of the work release program under chapter 72.65 RCW; or reestablishing himself or herself in the community as part of the parenting program in RCW 9.94A.6551. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

~~(f) ((No more than the final six months))~~ (i) No more than the final five months of the offender's term of confinement may be served in partial confinement as home detention as part of the graduated reentry program developed by the department under RCW 9.94A.733(1)(a);

(ii) For eligible offenders under RCW 9.94A.733(1)(b), after serving at least four months in total confinement in a state correctional facility, an offender may serve no more than the final 18 months of the offender's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department;

(g) The governor may pardon any offender;

(h) The department may release an offender from confinement any time within ten days before a release date calculated under this section;

(i) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870;

(j) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540; and

(k) Any person convicted of one or more crimes committed prior to the person's eighteenth birthday may be released from confinement pursuant to RCW 9.94A.730.

(2) Offenders residing in a juvenile correctional facility placement pursuant to RCW 72.01.410(1)(a) are not subject to the limitations in this section.

NEW SECTION. Sec. 3. The changes to restrictions on partial confinement and the graduated reentry program under sections 1 and 2 of this act apply prospectively and retroactively to persons currently serving a sentence in any facility or institution either operated by the state or utilized under contract.

Passed by the Senate April 19, 2021.

Passed by the House April 8, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 267

[Substitute Senate Bill 5157]

PERSONS WITH BEHAVIORAL DISORDERS—CRIMINAL JUSTICE SYSTEM— PERFORMANCE IMPROVEMENT

AN ACT Relating to providing incentives to reduce involvement by persons with behavioral disorders in the criminal justice system; amending RCW 70.320.020 and 70.320.030; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that in 2013 the legislature adopted outcome expectations for entities that contract with the state to provide health services in order to guide purchasing strategies by the health care authority and department of social and health services. Since then, the health care authority has established a performance measures coordinating committee and implemented performance terms in managed care contracts including, but not limited to, performance measurement requirements, mandatory performance improvement projects, and value-based purchasing terms.

The legislature finds that two outcomes established by chapter 320, Laws of 2013 (Engrossed Substitute House Bill No. 1519) and chapter 338, Laws of 2013 (Second Substitute Senate Bill No. 5732) which are key to the integration of behavioral health into primary health networks are (1) reduction in client involvement with the criminal justice system; and (2) reduction in avoidable costs in jails and prisons. These outcomes reflect Washington's priorities to incentivize cross-system collaboration between health networks, government entities, and the criminal justice system; to emphasize prevention over crisis response; and to remove individuals whose offending is driven primarily by health status instead of criminality from the criminal justice system.

The legislature further finds that indicators since 2013 show worsening trends for interaction between persons with behavioral health disorders and the criminal justice system. According to data presented in October 2018 by the research and data administration of the department of social and health services, arrests of persons enrolled in public health with an identified mental health or substance use disorder condition increased by 67 percent during this five-year period, while the overall rate of arrest declined by 11 percent. According to the same data source, referrals for state mental health services related to competency to stand trial have increased by 64 percent, incurring substantial liability for the state in the case of *Trueblood v. Department of Social and Health Services*. The purpose of this act is to focus the health care authority's purchasing efforts on providing incentives to its contractors to reverse these trends and achieve the outcome of reduced criminal justice system involvement for public health system clients with behavioral health disorders.

Sec. 2. RCW 70.320.020 and 2017 c 226 s 8 are each amended to read as follows:

(1) The authority and the department shall base contract performance measures developed under RCW 70.320.030 on the following outcomes when contracting with service contracting entities: Improvements in client health status and wellness; increases in client participation in meaningful activities; reductions in client involvement with criminal justice systems; reductions in avoidable costs in hospitals, emergency rooms, crisis services, and jails and prisons; increases in stable housing in the community; improvements in client satisfaction with quality of life; and reductions in population-level health disparities.

(2) The performance measures must demonstrate the manner in which the following principles are achieved within each of the outcomes under subsection (1) of this section:

(a) Maximization of the use of evidence-based practices will be given priority over the use of research-based and promising practices, and research-based practices will be given priority over the use of promising practices. The agencies will develop strategies to identify programs that are effective with ethnically diverse clients and to consult with tribal governments, experts within ethnically diverse communities and community organizations that serve diverse communities;

(b) The maximization of the client's independence, recovery, and employment;

(c) The maximization of the client's participation in treatment decisions; and

(d) The collaboration between consumer-based support programs in providing services to the client.

(3) In developing performance measures under RCW 70.320.030, the authority and the department shall consider expected outcomes relevant to the general populations that each agency serves. The authority and the department may adapt the outcomes to account for the unique needs and characteristics of discrete subcategories of populations receiving services, including ethnically diverse communities.

(4) The authority and the department shall coordinate the establishment of the expected outcomes and the performance measures between each agency as well as each program to identify expected outcomes and performance measures that are common to the clients enrolled in multiple programs and to eliminate conflicting standards among the agencies and programs.

(5)(a) The authority and the department shall establish timelines and mechanisms for service contracting entities to report data related to performance measures and outcomes, including phased implementation of public reporting of outcome and performance measures in a form that allows for comparison of performance measures and levels of improvement between geographic regions of Washington.

(b) The authority and the department may not release any public reports of client outcomes unless the data has been deidentified and aggregated in such a way that the identity of individual clients cannot be determined through directly identifiable data or the combination of multiple data elements.

(6)(a) The ((authority and department)) performance measures coordinating committee must establish ((a)): (i) A performance measure to be integrated into the statewide common measure set which tracks effective integration practices of behavioral health services in primary care settings; and (ii) performance

measures which track rates of criminal justice system involvement among public health system clients with an identified behavioral health need including, but not limited to, rates of arrest and incarceration. The authority must set improvement targets related to these measures.

(b) The performance measures coordinating committee must report to the governor and appropriate committees of the legislature regarding the implementation of this subsection by July 1, 2022.

(c) For purposes of establishing performance measures as specified in (a)(ii) of this subsection, the performance measures coordinating committee shall convene a work group of stakeholders including the authority, medicaid managed care organizations, the department of corrections, and others with expertise in criminal justice and behavioral health. The work group shall review current performance measures that have been adopted in other states or nationally to inform this effort.

(7) The authority must report to the governor and appropriate committees of the legislature by October 1, 2022, regarding options and recommendations for integrating value-based purchasing terms and a performance improvement project into managed health care contracts relating to the criminal justice outcomes specified under subsection (1) of this section.

Sec. 3. RCW 70.320.030 and 2015 c 209 s 1 are each amended to read as follows:

~~((By September 1, 2014:))~~

(1) The authority shall adopt performance measures to determine whether service contracting entities are achieving the outcomes described in RCW 70.320.020 and 41.05.690 for clients enrolled in medical managed care programs operated according to Title XIX or XXI of the federal social security act.

(2) The ~~((department))~~ authority shall adopt performance measures to determine whether service contracting entities are achieving the outcomes described in RCW 70.320.020 for clients receiving mental health, long-term care, or chemical dependency services.

Passed by the Senate April 14, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 268

[Engrossed Substitute Senate Bill 5178]

HEALTH CARE LAWS—AUTOMATIC WAIVERS—STATE OF EMERGENCY

AN ACT Relating to establishing timely considerations of waivers of select state health care laws to enable timely response by the health care system during a governor-declared statewide state of emergency; and adding a new section to chapter 43.06 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.06 RCW to read as follows:

(1)(a) If when declaring or amending a statewide state of emergency pursuant to RCW 43.06.010, the governor determines that the emergency

demands immediate action by hospitals to prevent critical health system failures and ensure hospitals' ability to work with emergency management in responding to the emergency, the governor shall, either simultaneously or within five days of that determination, specify within the emergency order or amended emergency order which of the following health care related statutes and substantially equivalent regulations shall be waived or suspended based on the nature of the declared emergency:

- (i) RCW 70.38.105(4) (a), (e), and (h);
- (ii) RCW 70.41.110, the following language only: "premises and";
- (iii) RCW 70.41.230;
- (iv) RCW 70.41.090 (3), (4), and (5);
- (v) RCW 18.64.043(1), the following language only: "of location, which shall entitle the owner to operate such pharmacy at the location specified, or such other temporary location as the secretary may approve,";
- (vi) RCW 18.64.043(2)(a), the following language only: "of location";
- (vii) RCW 18.64.043(3), the following language only: "and to keep the license of location or the renewal thereof properly exhibited in said pharmacy.";
- (viii) RCW 43.70.280(2), the following language only: "Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of health adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period."; and
- (ix) RCW 18.360.010(11), the following language only: "physically present and is" and "in the facility. The health care practitioner does not need to be present during procedures to withdraw blood, but must be immediately available."

(b) Hospitals that rely on waiver or suspension under (a) of this subsection shall notify the department within 14 days of initiating such reliance.

(c) Nothing in this section prevents the governor from waiving or suspending any statutes and substantially equivalent regulations outside the time frames established in this section. Additionally, the governor may waive or suspend any additional statutes, without limitation, as the governor deems necessary to address the emergency.

(2) Waivers and suspensions in subsection (1) of this section do not apply except to projects undertaken to provide or respond to surge capacity, including temporary increases in bed capacity, during the governor's declaration of a statewide state of emergency. Such projects and increases in bed capacity must comply with these statutory and regulatory provisions after the termination of the state of emergency.

Passed by the Senate April 14, 2021.

Passed by the House April 9, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 269

[Second Substitute Senate Bill 5183]

NONFATAL STRANGULATION VICTIMS

AN ACT Relating to victims of nonfatal strangulation; adding a new section to chapter 43.280 RCW; adding a new section to chapter 7.68 RCW; creating a new section; and providing expiration dates.

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

NEW SECTION. Sec. 1. The legislature finds that nonfatal strangulation is among the most dangerous acts of domestic violence and sexual assault. Strangulation involves external compression of the victim's airway and blood vessels, causing reduced air and blood flow to the brain. Victims may show no or minimal external signs of injury despite having life-threatening internal injuries including traumatic brain injury. Injuries may present after the assault or much later and may persist for months and even years postassault. Victims who are strangled multiple times face a greater risk of traumatic brain injury. Traumatic brain injury symptoms are often not recognized as assault-related and may include cognitive difficulties such as decreased ability to concentrate, make decisions, and solve problems. Traumatic brain injury symptoms may also include behavior and personality changes such as irritability, impulsivity, and mood swings.

Domestic violence victims who have been nonfatally strangled are eight times more likely to become a subsequent victim of homicide at the hands of the same abusive partner. Research shows that previous acts of strangulation are a unique and substantial predictor of attempted and completed homicide against an intimate partner.

For years, forensic nurses in Washington have provided high-level care to sexual assault victims. Forensic nurses are also trained in medical evaluation of nonfatal strangulation, but only provide this evaluation in cases of sexual assault involving strangulation, as crime victims' compensation will not reimburse in nonsexual assault cases. Strangulation affects victims physically and psychologically. These victims deserve a higher standard of response and medical care. Allowing crime victims' compensation to reimburse for forensic nurse examinations for victims of domestic violence strangulation will provide a better, more victim-centered response in the most dangerous of domestic violence felony cases.

NEW SECTION. Sec. 2. A new section is added to chapter 43.280 RCW to read as follows:

(1) The office of crime victims advocacy shall develop best practices that local communities may use on a voluntary basis to create more access to forensic nurse examiners in cases of nonfatal strangulation assault including, but not limited to, partnerships to serve multiple facilities, mobile nurse examiner teams, and multidisciplinary teams to serve victims in local communities.

(a) When developing the best practices, the office of crime victims advocacy shall consult with:

- (i) The Washington association of sheriffs and police chiefs;
- (ii) The Washington association of prosecuting attorneys;
- (iii) The Washington state coalition against domestic violence;
- (iv) The Harborview abuse and trauma center;

- (v) The Washington state hospital association;
- (vi) The Washington state association of counties;
- (vii) The association of Washington cities;
- (viii) The Washington coalition of sexual assault programs;
- (ix) The schools of nursing at Washington State University and the University of Washington;
- (x) Collective bargaining representatives of frontline nurse examiners; and
- (xi) Other organizations deemed appropriate by the office of crime victims advocacy.

(b) The office of crime victims advocacy shall complete the best practices no later than January 1, 2022, and publish them on its website.

(2) The office of crime victims advocacy shall develop strategies to make forensic nurse examiner training available to nurses in all regions of the state without requiring the nurses to travel unreasonable distances and without requiring medical facilities or the nurses to incur unreasonable expenses. Among other important factors deemed relevant and appropriate by the office of crime victims advocacy, the strategies should take into account the unique challenges faced by medical facilities and nurses operating in rural areas.

(a) When developing the strategies, the office of crime victims advocacy shall consult with:

- (i) The Harborview abuse and trauma center;
- (ii) The department of health;
- (iii) The nursing care quality assurance commission;
- (iv) The Washington state nurses association;
- (v) The Washington state hospital association;
- (vi) The schools of nursing at Washington State University and the University of Washington;
- (vii) Forensic nurse practitioners; and
- (viii) Other organizations deemed appropriate by the office of crime victims advocacy.

(b) The office of crime victims advocacy shall report the strategies to the governor and the appropriate committees of the legislature no later than October 1, 2022.

(3) This section expires June 30, 2023.

NEW SECTION. Sec. 3. A new section is added to chapter 7.68 RCW to read as follows:

(1) No costs incurred by a hospital or other emergency medical facility for the examination of the victim of domestic violence assault involving nonfatal strangulation, when such examination is performed for the purposes of gathering evidence for possible prosecution, shall be billed or charged directly or indirectly to the victim of such assault. Such costs shall be paid by the state pursuant to this chapter.

(2) The department must notify the office of financial management and the fiscal committees of the legislature if it projects that the cost of services provided under this section exceeds the amount of funding provided by the legislature solely for the purposes of this section.

(3) No later than October 1, 2022, the department shall report to the legislature the following information for fiscal year 2022:

(a) The number, type, and amount of claims received by victims of suspected nonfatal strangulation, with a subtotal of claims that also involved sexual assault;

(b) The number, type, and amount of claims paid for victims of suspected nonfatal strangulation, with a subtotal of claims that also involved sexual assault; and

(c) The number of police reports filed by victims of suspected nonfatal strangulation who received services under this section.

(4) This section expires June 30, 2023.

Passed by the Senate April 19, 2021.

Passed by the House April 6, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 270

[Substitute Senate Bill 5185]

HEALTH CARE DECISIONS—INFORMED CONSENT

AN ACT Relating to capacity to provide informed consent for health care decisions; amending RCW 7.70.065, 7.70.050, 7.70.060, 69.50.317, and 70.02.220; and providing an effective date.

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

Sec. 1. RCW 7.70.065 and 2020 c 312 s 705 are each amended to read as follows:

(1) Informed consent for health care for a patient who ~~((is a minor or, to consent))~~ does not have the capacity to make a health care decision may be obtained from a person authorized to consent on behalf of such patient. For purposes of this section, a person who is of the age of consent to make a particular health care decision is presumed to have capacity, unless a health care provider reasonably determines the person lacks capacity to make the health care decision due to the person's demonstrated inability to understand and appreciate the nature and consequences of a health condition, the proposed treatment, including the anticipated results, benefits, risks, and alternatives to the proposed treatment, including nontreatment, and reach an informed decision as a result of cognitive impairment; and the health care provider documents the basis for the determination in the medical record.

(a) Persons authorized to provide informed consent to health care on behalf of ~~((a) an adult patient who ((has been placed under a guardianship under RCW 11.130.265 a minor or;))~~ does not have the capacity to make a health care decision shall be a member of one of the following classes of persons in the following order of priority:

- (i) The appointed guardian of the patient, if any;
- (ii) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;
- (iii) The patient's spouse or state registered domestic partner;
- (iv) Children of the patient who are at least eighteen years of age;
- (v) Parents of the patient;
- (vi) Adult brothers and sisters of the patient;
- (vii) Adult grandchildren of the patient who are familiar with the patient;

(viii) Adult nieces and nephews of the patient who are familiar with the patient;

(ix) Adult aunts and uncles of the patient who are familiar with the patient; and

(x)(A) An adult who:

(I) Has exhibited special care and concern for the patient;

(II) Is familiar with the patient's personal values;

(III) Is reasonably available to make health care decisions;

(IV) Is not any of the following: A physician to the patient or an employee of the physician; the owner, administrator, or employee of a health care facility, nursing home, or long-term care facility where the patient resides or receives care; or a person who receives compensation to provide care to the patient; and

(V) Provides a declaration under (a)(x)(B) of this subsection.

(B) An adult who meets the requirements of (a)(x)(A) of this subsection shall provide a declaration, which is effective for up to six months from the date of the declaration, signed and dated under penalty of perjury pursuant to chapter 5.50 RCW, that recites facts and circumstances demonstrating that he or she is familiar with the patient and that he or she:

(I) Meets the requirements of (a)(x)(A) of this subsection;

(II) Is a close friend of the patient;

(III) Is willing and able to become involved in the patient's health care;

(IV) Has maintained such regular contact with the patient as to be familiar with the patient's activities, health, personal values, and morals; and

(V) Is not aware of a person in a higher priority class willing and able to provide informed consent to health care on behalf of the patient.

(C) A health care provider may, but is not required to, rely on a declaration provided under (a)(x)(B) of this subsection. The health care provider or health care facility where services are rendered is immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration provided in compliance with (a)(x)(B) of this subsection.

(b) If the health care provider seeking informed consent for proposed health care of the patient who ~~((has been placed under a guardianship under RCW 11.130.265,))~~ does not have the capacity to make a particular health care decision, other than a person who is under the age of consent for the particular health care decision, makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

(i) If a person of higher priority under this section has refused to give such authorization; or

(ii) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(c) Before any person authorized to provide informed consent on behalf of a patient who ~~((has been placed under a guardianship under RCW 11.130.265,))~~ does not have the capacity to make a health care decision exercises that authority, the person must first determine in good faith that that patient, if ~~((competent))~~ he or she had the capacity to make the health care decision, would

consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests. This subsection (1)(c) does not apply to informed consent provided on behalf of a patient who has not reached the age of consent required to make a particular health care decision.

(d) No rights under Washington's death with dignity act, chapter 70.245 RCW, may be exercised through a person authorized to provide informed consent to health care on behalf of a patient who ~~((is a minor or has been placed under a guardianship under RCW 11.130.265))~~ does not have the capacity to make a health care decision.

(2) Informed consent for health care, including mental health care, for a patient who is under the age of majority and who is not otherwise authorized to provide informed consent, may be obtained from a person authorized to consent on behalf of such a patient.

(a) Persons authorized to provide informed consent to health care, including mental health care, on behalf of a patient who is under the age of majority and who is not otherwise authorized to provide informed consent, shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian, or legal custodian authorized pursuant to Title 26 RCW, of the minor patient, if any;

(ii) A person authorized by the court to consent to medical care for a child in out-of-home placement pursuant to chapter 13.32A or 13.34 RCW, if any;

(iii) Parents of the minor patient;

(iv) The individual, if any, to whom the minor's parent has given a signed authorization to make health care decisions for the minor patient; and

(v) A competent adult representing himself or herself to be a relative responsible for the health care of such minor patient or a competent adult who has signed and dated a declaration under penalty of perjury pursuant to chapter 5.50 RCW stating that the adult person is a relative responsible for the health care of the minor patient. Such declaration shall be effective for up to six months from the date of the declaration.

(b)(i) Informed consent for health care on behalf of a patient who is under the age of majority and who is not otherwise authorized to provide informed consent may be obtained from a school nurse, school counselor, or homeless student liaison when:

(A) Consent is necessary for nonemergency, outpatient, primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries;

(B) The minor patient meets the definition of a "homeless child or youth" under the federal McKinney-Vento homeless education assistance improvements act of 2001, P.L. 107-110, January 8, 2002, 115 Stat. 2005; and

(C) The minor patient is not under the supervision or control of a parent, custodian, or legal guardian, and is not in the care and custody of the department of social and health services.

(ii) A person authorized to consent to care under this subsection (2)(b) and the person's employing school or school district are not subject to administrative sanctions or civil damages resulting from the consent or nonconsent for care, any care, or payment for any care, rendered pursuant to this section. Nothing in this section prevents a health care facility or a health care provider from seeking reimbursement from other sources for care provided to a minor patient under this subsection (2)(b).

(iii) Upon request by a health care facility or a health care provider, a person authorized to consent to care under this subsection (2)(b) must provide to the person rendering care a declaration signed and dated under penalty of perjury pursuant to chapter 5.50 RCW stating that the person is a school nurse, school counselor, or homeless student liaison and that the minor patient meets the elements under (b)(i) of this subsection. The declaration must also include written notice of the exemption from liability under (b)(ii) of this subsection.

(c) A health care provider may, but is not required to, rely on the representations or declaration of a person claiming to be a relative responsible for the care of the minor patient, under (a)(v) of this subsection, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection, if the health care provider does not have actual notice of the falsity of any of the statements made by the person claiming to be a relative responsible for the health care of the minor patient, or person claiming to be authorized to consent to the health care of the minor patient.

(d) A health care facility or a health care provider may, in its discretion, require documentation of a person's claimed status as being a relative responsible for the health care of the minor patient, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection. However, there is no obligation to require such documentation.

(e) The health care provider or health care facility where services are rendered shall be immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration signed under penalty of perjury pursuant to chapter 5.50 RCW stating that the adult person is a relative responsible for the health care of the minor patient under (a)(v) of this subsection, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection.

(3) For the purposes of this section, "health care," "health care provider," and "health care facility" shall be defined as established in RCW 70.02.010.

(4) A person who knowingly provides a false declaration under this section shall be subject to criminal penalties under chapter 9A.72 RCW.

Sec. 2. RCW 7.70.050 and 2011 c 336 s 252 are each amended to read as follows:

(1) The following shall be necessary elements of proof that injury resulted from health care in a civil negligence case or arbitration involving the issue of the alleged breach of the duty to secure an informed consent by a patient or his or her representatives against a health care provider:

(a) That the health care provider failed to inform the patient of a material fact or facts relating to the treatment;

(b) That the patient consented to the treatment without being aware of or fully informed of such material fact or facts;

(c) That a reasonably prudent patient under similar circumstances would not have consented to the treatment if informed of such material fact or facts;

(d) That the treatment in question proximately caused injury to the patient.

(2) Under the provisions of this section a fact is defined as or considered to be a material fact, if a reasonably prudent person in the position of the patient or his or her representative would attach significance to it deciding whether or not to submit to the proposed treatment.

(3) Material facts under the provisions of this section which must be established by expert testimony shall be either:

(a) The nature and character of the treatment proposed and administered;

(b) The anticipated results of the treatment proposed and administered;

(c) The recognized possible alternative forms of treatment; or

(d) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment administered and in the recognized possible alternative forms of treatment, including nontreatment.

(4) If a recognized health care emergency exists and the patient (~~is not legally competent~~) does not have the capacity to give an informed consent and/or a person legally authorized to consent on behalf of the patient is not readily available, his or her consent to required treatment will be implied.

Sec. 3. RCW 7.70.060 and 2012 c 101 s 1 are each amended to read as follows:

(1) If a patient (~~while legally competent~~) who has capacity to make health a care decision, or his or her representative if he or she (~~is not competent~~) does not have the capacity to make a health care decision, signs a consent form which sets forth the following, the signed consent form shall constitute prima facie evidence that the patient gave his or her informed consent to the treatment administered and the patient has the burden of rebutting this by a preponderance of the evidence:

(a) A description, in language the patient could reasonably be expected to understand, of:

(i) The nature and character of the proposed treatment;

(ii) The anticipated results of the proposed treatment;

(iii) The recognized possible alternative forms of treatment; and

(iv) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment and in the recognized possible alternative forms of treatment, including nontreatment;

(b) Or as an alternative, a statement that the patient elects not to be informed of the elements set forth in (a) of this subsection.

(2) If a patient (~~while legally competent~~) who has capacity to make a health care decision, or his or her representative if he or she (~~is not competent~~) does not have the capacity to make a health care decision, signs an acknowledgment of shared decision making as described in this section, such acknowledgment shall constitute prima facie evidence that the patient gave his or her informed consent to the treatment administered and the patient has the burden of rebutting this by clear and convincing evidence. An acknowledgment of shared decision making shall include:

(a) A statement that the patient, or his or her representative, and the health care provider have engaged in shared decision making as an alternative means of

meeting the informed consent requirements set forth by laws, accreditation standards, and other mandates;

(b) A brief description of the services that the patient and provider jointly have agreed will be furnished;

(c) A brief description of the patient decision aid or aids that have been used by the patient and provider to address the needs for (i) high-quality, up-to-date information about the condition, including risk and benefits of available options and, if appropriate, a discussion of the limits of scientific knowledge about outcomes; (ii) values clarification to help patients sort out their values and preferences; and (iii) guidance or coaching in deliberation, designed to improve the patient's involvement in the decision process;

(d) A statement that the patient or his or her representative understands: The risk or seriousness of the disease or condition to be prevented or treated; the available treatment alternatives, including nontreatment; and the risks, benefits, and uncertainties of the treatment alternatives, including nontreatment; and

(e) A statement certifying that the patient or his or her representative has had the opportunity to ask the provider questions, and to have any questions answered to the patient's satisfaction, and indicating the patient's intent to receive the identified services.

(3) As used in this section, "shared decision making" means a process in which the physician or other health care practitioner discusses with the patient or his or her representative the information specified in subsection (2) of this section with the use of a patient decision aid and the patient shares with the provider such relevant personal information as might make one treatment or side effect more or less tolerable than others.

(4)(a) As used in this section, "patient decision aid" means a written, audiovisual, or online tool that provides a balanced presentation of the condition and treatment options, benefits, and harms, including, if appropriate, a discussion of the limits of scientific knowledge about outcomes, for any medical condition or procedure, including abortion as defined in RCW 9.02.170 and:

(i)(A) That is certified by one or more national certifying organizations recognized by the medical director of the health care authority; or

(B) That has been evaluated based on the international patient decision aid standards by an organization located in the United States or Canada and has a current overall score satisfactory to the medical director of the health care authority; or

(ii) That, if a current evaluation is not available from an organization located in the United States or Canada, the medical director of the health care authority has independently assessed and certified based on the international patient decision aid standards.

(b) The health care authority may charge a fee to the certification applicant to defray the costs of the assessment and certification under this subsection.

(5) Failure to use a form or to engage in shared decision making, with or without the use of a patient decision aid, shall not be admissible as evidence of failure to obtain informed consent. There shall be no liability, civil or otherwise, resulting from a health care provider choosing either the signed consent form set forth in subsection (1)(a) of this section or the signed acknowledgment of shared decision making as set forth in subsection (2) of this section.

Sec. 4. RCW 69.50.317 and 2019 c 314 s 17 are each amended to read as follows:

(1) Any practitioner who writes the first prescription for an opioid during the course of treatment to any patient must, under professional rules, discuss the following with the patient:

(a) The risks of opioids, including risk of dependence and overdose;

(b) Pain management alternatives to opioids, including nonopioid pharmacological treatments, and nonpharmacological treatments available to the patient, at the discretion of the practitioner and based on the medical condition of the patient; and

(c) A written copy of the warning language provided by the department under RCW 43.70.765.

(2) If the patient is under eighteen years old or (~~is not competent~~) does not have the capacity to make a health care decision, the discussion required by subsection (1) of this section must include the patient's parent, guardian, or the person identified in RCW 7.70.065, unless otherwise provided by law.

(3) The practitioner shall document completion of the requirements in subsection (1) of this section in the patient's health care record.

(4) To fulfill the requirements of subsection (1) of this section, a practitioner may designate any individual who holds a credential issued by a disciplining authority under RCW 18.130.040 to conduct the discussion.

(5) Violation of this section constitutes unprofessional conduct under chapter 18.130 RCW.

(6) This section does not apply to:

(a) Opioid prescriptions issued for the treatment of pain associated with terminal cancer or other terminal diseases, or for palliative, hospice, or other end-of-life care of where the practitioner determines the health, well-being, or care of the patient would be compromised by the requirements of this section and documents such basis for the determination in the patient's health care record; or

(b) Administration of an opioid in an inpatient or outpatient treatment setting.

(7) This section does not apply to practitioners licensed under chapter 18.92 RCW.

(8) The department shall review this section by March 31, 2026, and report to the appropriate committees of the legislature on whether this section should be retained, repealed, or amended.

Sec. 5. RCW 70.02.220 and 2017 3rd sp.s. c 6 s 332 are each amended to read as follows:

(1) No person may disclose or be compelled to disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease, except as authorized by this section, RCW 70.02.210, or chapter 70.24 RCW.

(2) No person may disclose or be compelled to disclose information and records related to sexually transmitted diseases, except as authorized by this section, RCW 70.02.210, 70.02.205, or chapter 70.24 RCW. A person may disclose information related to sexually transmitted diseases about a patient without the patient's authorization, to the extent a recipient needs to know the information, if the disclosure is to:

(a) The subject of the test or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with the exception of such a representative of a minor fourteen years of age or over and otherwise ~~((competent))~~ capable of making health care decisions;

(b) The state ~~((public))~~ health officer as defined in RCW 70.24.017, a local public health officer, or the centers for disease control of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;

(c) A health facility or health care provider that procures, processes, distributes, or uses: (i) A human body part, tissue, or blood from a deceased person with respect to medical information regarding that person; (ii) semen, including that was provided prior to March 23, 1988, for the purpose of artificial insemination; or (iii) blood specimens;

(d) Any state or local public health officer conducting an investigation pursuant to RCW 70.24.024, so long as the record was obtained by means of court-ordered HIV testing pursuant to RCW 70.24.340 or 70.24.024;

(e) A person allowed access to the record by a court order granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of the order, the court, in determining the extent to which any disclosure of all or any part of the record of any such test is necessary, shall impose appropriate safeguards against unauthorized disclosure. An order authorizing disclosure must: (i) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted; (ii) limit disclosure to those persons whose need for information is the basis for the order; and (iii) include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship, and the treatment services;

(f) Persons who, because of their behavioral interaction with the infected individual, have been placed at risk for acquisition of a sexually transmitted disease, as provided in RCW 70.24.022, if the health officer or authorized representative believes that the exposed person was unaware that a risk of disease exposure existed and that the disclosure of the identity of the infected person is necessary;

(g) A law enforcement officer, firefighter, health care provider, health care facility staff person, department of correction's staff person, jail staff person, or other persons as defined by the board of health in rule pursuant to RCW 70.24.340~~((4))~~, who has requested a test of a person whose bodily fluids he or she has been substantially exposed to, pursuant to RCW 70.24.340~~((4))~~, if a state or local public health officer performs the test;

(h) Claims management personnel employed by or associated with an insurer, health care service contractor, health maintenance organization, self-funded health plan, state administered health care claims payer, or any other payer of health care claims where such disclosure is to be used solely for the prompt and accurate evaluation and payment of medical or related claims. Information released under this subsection must be confidential and may not be released or available to persons who are not involved in handling or determining medical claims payment; and

(i) A department of children, youth, and families worker, a child-placing agency worker, or a guardian ad litem who is responsible for making or reviewing placement or case-planning decisions or recommendations to the court regarding a child, who is less than fourteen years of age, has a sexually transmitted disease, and is in the custody of the department of children, youth, and families or a licensed child-placing agency. This information may also be received by a person responsible for providing residential care for such a child when the department of social and health services, the department of children, youth, and families, or a licensed child-placing agency determines that it is necessary for the provision of child care services.

(3) No person to whom the results of a test for a sexually transmitted disease have been disclosed pursuant to subsection (2) of this section may disclose the test results to another person except as authorized by that subsection.

(4) The release of sexually transmitted disease information regarding an offender or detained person, except as provided in subsection (2)(d) of this section, is governed as follows:

(a) The sexually transmitted disease status of a department of corrections offender who has had a mandatory test conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available by department of corrections health care providers and local public health officers to the department of corrections health care administrator or infection control coordinator of the facility in which the offender is housed. The information made available to the health care administrator or the infection control coordinator under this subsection (4)(a) may be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. The information may be submitted to transporting officers and receiving facilities, including facilities that are not under the department of corrections' jurisdiction according to the provisions of (d) and (e) of this subsection.

(b) The sexually transmitted disease status of a person detained in a jail who has had a mandatory test conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the local public health officer to a jail health care administrator or infection control coordinator. The information made available to a health care administrator under this subsection (4)(b) may be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, detainees, and the public. The information may be submitted to transporting officers and receiving facilities according to the provisions of (d) and (e) of this subsection.

(c) Information regarding the sexually transmitted disease status of an offender or detained person is confidential and may be disclosed by a correctional health care administrator or infection control coordinator or local jail health care administrator or infection control coordinator only as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. Unauthorized disclosure of this information to any person may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080 or any other penalties as may be prescribed by law.

(d) Notwithstanding the limitations on disclosure contained in (a), (b), and (c) of this subsection, whenever any member of a jail staff or department of

corrections staff has been substantially exposed to the bodily fluids of an offender or detained person, then the results of any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370, must be immediately disclosed to the staff person in accordance with the Washington Administrative Code rules governing employees' occupational exposure to blood-borne pathogens. Disclosure must be accompanied by appropriate counseling for the staff member, including information regarding follow-up testing and treatment. Disclosure must also include notice that subsequent disclosure of the information in violation of this chapter or use of the information to harass or discriminate against the offender or detainee may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080, and imposition of other penalties prescribed by law.

(e) The staff member must also be informed whether the offender or detained person had any other communicable disease, as defined in RCW 72.09.251(3), when the staff person was substantially exposed to the offender's or detainee's bodily fluids.

(f) The test results of voluntary and anonymous HIV testing or HIV-related condition, as defined in RCW 70.24.017, may not be disclosed to a staff person except as provided in this section and RCW 70.02.050(1)(d) and 70.24.340(~~((4))~~). A health care administrator or infection control coordinator may provide the staff member with information about how to obtain the offender's or detainee's test results under this section and RCW 70.02.050(1)(d) and 70.24.340(~~((4))~~).

(5) The requirements of this section do not apply to the customary methods utilized for the exchange of medical information among health care providers in order to provide health care services to the patient, nor do they apply within health care facilities where there is a need for access to confidential medical information to fulfill professional duties.

(6) Upon request of the victim, disclosure of test results under this section to victims of sexual offenses under chapter 9A.44 RCW must be made if the result is negative or positive. The county prosecuting attorney shall notify the victim of the right to such disclosure. The disclosure must be accompanied by appropriate counseling, including information regarding follow-up testing.

(7) A person, including a health care facility or health care provider, shall disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease and information and records related to sexually transmitted diseases to federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal certification or registration rules or laws; or when needed to protect the public health. Any health care information obtained under this subsection is exempt from public inspection and copying pursuant to chapter 42.56 RCW.

NEW SECTION. **Sec. 6.** This act takes effect January 1, 2022.

Passed by the Senate April 21, 2021.

Passed by the House April 5, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 271

[Engrossed Substitute Senate Bill 5193]

UNEMPLOYMENT INSURANCE—CLAIM ADJUDICATORS

AN ACT Relating to unemployment insurance systems enhancements, including creating a reserve force of unemployment claim adjudicators, effective and equitable claims processing, and transparent performance metrics; adding new sections to chapter 50.12 RCW; creating new sections; and providing an expiration date.

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

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

The legislature recognizes that the employment security department maintains a recession readiness team that prepares the agency to respond to economic changes, helping employers and employees plan for the future. Based on experience with past recessions, the employment security department's readiness team prepared contingency plans for a possible economic crisis. During the great recession, there were approximately 61,000 continued unemployment insurance claims in September 2008, rising to a high of approximately 173,000 claims in January of 2010, a period of 16 months. During the first three months of COVID-19, unemployment insurance claims were more than double those filed during the great recession, a time period that was seven times longer. From February 2020 to April 2020, unemployment insurance claims went from approximately 62,000 to approximately 447,000 claims. The sudden magnitude of claimants overwhelmed the system; contributing to Washingtonians waiting months for their earned benefits and facing deep economic insecurity.

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

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

Amid an unprecedented need for benefits and stresses on our unemployment insurance program, the legislature intends to create a pool of qualified unemployment insurance claim adjudicators, reduce claimants' need for

assistance, assure transparency of claims processing performance measures, and make other system enhancements. Together, these systems enhancements will ensure quicker claim resolution and benefit payment; thus providing critical economic support during future unemployment crises.

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

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

(2) The program must:

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

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

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

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

(4) By October 1, 2021, and each year thereafter, the employment security department must provide a report to the house of representatives committee on labor and workplace standards and the senate committee on labor, commerce, and tribal affairs, or successor committees, on the number of persons with current certifications under subsection (2)(c) of this section, the number of people employed by the department and over what period of time, and the adjudicator training and hiring costs.

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

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

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

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

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

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

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

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

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

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

The department must:

(1) Maintain an online data dashboard.

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

(a) Updates of unemployment rates;

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

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

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

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

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

NEW SECTION, Sec. 5. (1) By September 1, 2021, and at least quarterly through September 1, 2022, the employment security department must provide a report to the house of representatives committee on labor and workplace standards and the senate committee on labor, commerce, and tribal affairs, or successor committees, that includes:

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

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

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

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

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

(2) This section expires December 1, 2022.

Passed by the Senate April 19, 2021.

Passed by the House April 5, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 272

[Engrossed Second Substitute Senate Bill 5194]

COMMUNITY AND TECHNICAL COLLEGES—VARIOUS PROVISIONS

AN ACT Relating to equity and access in higher education; amending RCW 28B.96.010 and 28B.15.012; adding new sections to chapter 28B.50 RCW; creating a new section; and providing expiration dates.

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

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

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

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

The legislature further finds that research establishes that students from underrepresented minorities are far more likely to complete degrees or

workforce training certification programs if the faculty and staff of the college reflect the diversity of the student body. Therefore, the legislature intends for the state's community and technical colleges to develop and implement plans to increase faculty and staff diversity.

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

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

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

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

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

(5) The state board for community and technical colleges shall develop a model faculty diversity program designed to provide for the retention and recruitment of faculty from all racial, ethnic, and cultural backgrounds. The

faculty diversity program must be based on proven practices in diversity hiring processes.

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

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

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

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

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

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

(i) Equity competent academic advising services;

(ii) Equity competent career development programming;

(iii) Clear information regarding financial aid and financial literacy; and

(iv) Inclusive curriculum and teaching practices.

(2) Each community and technical college shall post on its website and include in the guided pathways program documentation and reports definitions for key terms including: Diversity, equity, inclusion, culturally competent, culturally appropriate, historically marginalized communities, communities of color, low-income communities, and community organizations.

(3)(a) The Washington state institute for public policy, in consultation with the workforce education investment accountability and oversight board under RCW 28C.18.200, shall complete an evaluation of the guided pathways model. To the extent possible, the institute shall complete a preliminary report that evaluates the effect of the guided pathways model on early student outcomes including, but not limited to, student retention and persistence, college level

English and math within the first year, and graduation and transfer rates. The preliminary report must review the implementation of the guided pathways model in Washington and any available evidence of the effectiveness of the guided pathways model. The preliminary report must be submitted by December 15, 2023.

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

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

NEW SECTION. Sec. 5. TENURE-TRACK FACULTY. (1) The legislature recognizes that student outcomes and success, especially for first generation, underserved students, may be significantly improved by increasing the number of full-time faculty at community and technical colleges.

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

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

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

(2) This section expires July 1, 2024.

NEW SECTION. Sec. 6. MENTAL HEALTH COUNSELOR PILOT PROGRAM. (1) Subject to the availability of amounts appropriated for this specific purpose, the college board shall administer a pilot program to increase student access to mental health counseling and services.

(2) The college board, in collaboration with the selection committee, shall select community or technical colleges to participate in the pilot program. At least half of the participating colleges must be located outside of the Puget

Sound area. For purposes of this section, "Puget Sound area" means Snohomish, King, Pierce, and Thurston counties. Each participating college must receive a grant to implement one or more strategies to increase student access to mental health counseling and services, including substance use disorder counseling and services.

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

- (i) One community or technical college president;
- (ii) One community or technical college vice president for student services or student instruction;
- (iii) Two faculty counselors employed at a community or technical college; and
- (iv) One community or technical college student.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) This section expires January 1, 2026.

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

(a) A graduate or professional degree in a related field;

(b) Completion of appropriate graduate coursework; and

(c) Standards established by the state board for community and technical colleges.

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

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

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

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

- (a) Is a resident student;
- (b) Demonstrates financial need as defined in RCW 28B.92.030;
- (c) Has indicated they will attend an institution of higher education or is making satisfactory progress in a program, as defined in rule by the office, at an institution of higher education;
- (d) Fills out the Washington application for state financial aid; and
- (e) Does not qualify for federally funded student financial aid because of their citizenship status.

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

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

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

(5) "Resident student" means:

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

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

(c) Any student:

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

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

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

(d) Any person((:

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

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

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

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

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

Whenever used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

(i) Admitted to an institution before the reassignment and enrolls in that institution for the term the student was admitted; or

(ii) Enrolled in an institution and remains continuously enrolled at the institution;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Admitted to an institution before the reassignment and enrolls in that institution for the term the student was admitted; or

(ii) Enrolled in an institution and remains continuously enrolled at the institution.

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

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

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

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter. This condition shall not apply to students from Columbia, Multnomah,

Clatsop, Clackamas, or Washington county, Oregon participating in the border county pilot project under RCW 28B.76.685, 28B.76.690, and 28B.15.0139.

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

(i) A lawful permanent resident;

(ii) A temporary resident;

(iii) A person who holds "refugee-parolee," "conditional entrant," or U or T nonimmigrant status with the United States citizenship and immigration services;

(iv) A person who has been issued an employment authorization document by the United States citizenship and immigration services that is valid as of the date the person's residency status is determined;

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

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

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

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

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

(a) The armed forces of the United States government; or

(b) The Washington national guard; or

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

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

(9) The term "uniformed services" is defined by Title 10 U.S.C.; subsequently structured and organized by Titles 14, 33, and 42 U.S.C.; consisting of the United States army, United States marine corps, United States

navy, United States air force, United States coast guard, United States public health service commissioned corps, and the national oceanic and atmospheric administration commissioned officer corps.

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

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

Passed by the Senate April 19, 2021.

Passed by the House April 9, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 273

[Second Substitute Senate Bill 5195]

OPIOID OVERDOSE REVERSAL MEDICATION—PRESCRIBING

AN ACT Relating to opioid overdose reversal medication; amending RCW 70.41.480 and 39.26.125; adding a new section to chapter 70.41 RCW; adding a new section to chapter 71.24 RCW; adding new sections to chapter 74.09 RCW; adding new sections to chapter 70.14 RCW; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.43 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:

(a) Opioid use disorder is a treatable brain disease from which people recover;

(b) Individuals living with opioid use disorder are at high risk for fatal overdose;

(c) Overdose deaths are preventable with lifesaving opioid overdose reversal medications like naloxone;

(d) Just as individuals with life-threatening allergies should carry an EpiPen, individuals with opioid use disorder should carry opioid overdose reversal medication;

(e) There are 53,000 individuals in Washington enrolled in apple health, Washington's medicaid program, that have a diagnosis of opioid use disorder and yet there are alarmingly few medicaid claims for opioid overdose reversal medication; and

(f) Most of the opioid overdose reversal medication distributed in Washington is currently paid for with flexible federal and state dollars and distributed in bulk, rather than appropriately billed to a patient's insurance. Those finite flexible funds should instead be used for nonmedicaid eligible expenses or for opioid overdose reversal medication distributed in nonmedicaid eligible settings or to nonmedicaid eligible persons. The state's current methods for acquisition and distribution of opioid overdose reversal medication are not sustainable and insufficient to reach all Washingtonians living with opioid use disorder.

(2) Therefore, it is the intent of the legislature to increase access for all individuals with opioid use disorder to opioid overdose reversal medication so

that if they experience an overdose, they will have a second chance. As long as there is breath, there is hope for recovery.

Sec. 2. RCW 70.41.480 and 2019 c 314 s 18 are each amended to read as follows:

(1) The legislature finds that high quality, safe, and compassionate health care services for patients of Washington state must be available at all times. The legislature further finds that there is a need for patients being released from hospital emergency departments to maintain access to emergency medications when community or hospital pharmacy services are not available, including medication for opioid overdose reversal and for the treatment for opioid use disorder as appropriate. It is the intent of the legislature to accomplish this objective by allowing practitioners with prescriptive authority to prescribe limited amounts of prepackaged emergency medications to patients being discharged from hospital emergency departments when access to community or outpatient hospital pharmacy services is not otherwise available.

(2) A hospital may allow a practitioner to prescribe prepackaged emergency medications and allow a practitioner or a registered nurse licensed under chapter 18.79 RCW to distribute prepackaged emergency medications to patients being discharged from a hospital emergency department in the following circumstances:

(a) During times when community or outpatient hospital pharmacy services are not available within fifteen miles by road; or

(b) When, in the judgment of the practitioner and consistent with hospital policies and procedures, a patient has no reasonable ability to reach the local community or outpatient pharmacy(~~or~~

~~(c) When, in the judgment of the practitioner and consistent with hospital policies and procedures, a patient is at risk of opioid overdose and the prepackaged emergency medication being distributed is an opioid overdose reversal medication. The labeling requirements of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose reversal medications dispensed, distributed, or delivered pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with this section. The individual or entity that dispenses, distributes, or delivers an opioid overdose reversal medication as authorized by this section must ensure that directions for use are provided)).~~

(3) A hospital may only allow this practice if: The director of the hospital pharmacy, in collaboration with appropriate hospital medical staff, develops policies and procedures regarding the following:

(a) Development of a list, preapproved by the pharmacy director, of the types of emergency medications to be prepackaged and distributed;

(b) Assurances that emergency medications to be prepackaged pursuant to this section are prepared by a pharmacist or under the supervision of a pharmacist licensed under chapter 18.64 RCW;

(c) Development of specific criteria under which emergency prepackaged medications may be prescribed and distributed consistent with the limitations of this section;

(d) Assurances that any practitioner authorized to prescribe prepackaged emergency medication or any nurse authorized to distribute prepackaged

emergency medication is trained on the types of medications available and the circumstances under which they may be distributed;

(e) Procedures to require practitioners intending to prescribe prepackaged emergency medications pursuant to this section to maintain a valid prescription either in writing or electronically in the patient's records prior to a medication being distributed to a patient;

(f) Establishment of a limit of no more than a forty-eight hour supply of emergency medication as the maximum to be dispensed to a patient, except when community or hospital pharmacy services will not be available within forty-eight hours. In no case may the policy allow a supply exceeding ninety-six hours be dispensed;

(g) Assurances that prepackaged emergency medications will be kept in a secure location in or near the emergency department in such a manner as to preclude the necessity for entry into the pharmacy; and

(h) Assurances that nurses or practitioners will distribute prepackaged emergency medications to patients only after a practitioner has counseled the patient on the medication.

(4) The delivery of a single dose of medication for immediate administration to the patient is not subject to the requirements of this section.

(5) Nothing in this section restricts the authority of a practitioner in a hospital emergency department to distribute opioid overdose reversal medication under RCW 69.41.095.

(6) A practitioner in a hospital emergency department must dispense or distribute opioid overdose reversal medication in compliance with section 3 of this act.

(7) For purposes of this section:

(a) "Emergency medication" means any medication commonly prescribed to emergency department patients, including those drugs, substances or immediate precursors listed in schedules II through V of the uniform controlled substances act, chapter 69.50 RCW, as now or hereafter amended.

(b) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(c) "Opioid overdose reversal medication" has the same meaning as provided in RCW 69.41.095.

(d) "Practitioner" means any person duly authorized by law or rule in the state of Washington to prescribe drugs as defined in RCW 18.64.011(29).

~~((d))~~ (e) "Nurse" means a registered nurse as defined in RCW 18.79.020.

NEW SECTION. Sec. 3. A new section is added to chapter 70.41 RCW to read as follows:

(1) A hospital shall provide a person who presents to an emergency department with symptoms of an opioid overdose, opioid use disorder, or other adverse event related to opioid use with opioid overdose reversal medication upon discharge, unless the treating practitioner determines in their clinical and professional judgment that dispensing or distributing opioid overdose reversal medication is not appropriate or the practitioner has confirmed that the patient already has opioid overdose reversal medication. If the hospital dispenses or distributes opioid overdose reversal medication it must provide directions for use.

(2) The opioid overdose reversal medication may be dispensed with technology used to dispense medications.

(3) A person who is provided opioid overdose reversal medication under this section must be provided information and resources about medication for opioid use disorder and harm reduction strategies and services which may be available, such as substance use disorder treatment services and substance use disorder peer counselors. This information should be available in all languages relevant to the communities that the hospital serves.

(4) The labeling requirements of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose reversal medications dispensed or distributed in accordance with this section.

(5) Until the opioid overdose reversal medication bulk purchasing and distribution program established in section 7 of this act is operational:

(a) If the patient is enrolled in a medical assistance program under chapter 74.09 RCW, the hospital must bill the patient's medicaid benefit for the patient's opioid overdose reversal medication utilizing the appropriate billing codes established by the health care authority. This billing must be separate from and in addition to the payment for the other services provided during the hospital visit.

(b) If the patient has available health insurance coverage other than medical assistance under chapter 74.09 RCW, the hospital must bill the patient's health plan for the cost of the opioid overdose reversal medication.

(c) For patients who are not enrolled in medical assistance and do not have any other available insurance coverage, the hospital must bill the health care authority for the cost of the patient's opioid overdose reversal medication.

(6) This section does not prohibit a hospital from dispensing opioid overdose reversal medication to a patient at no cost to the patient out of the hospital's prepurchased supply.

(7) Nothing in this section prohibits or modifies a hospital's ability or responsibility to bill a patient's health insurance or to provide financial assistance as required by state or federal law.

(8) A hospital, its employees, and its practitioners are immune from suit in any action, civil or criminal, or from professional or other disciplinary action, for action or inaction in compliance with this section.

(9) For purposes of this section:

(a) "Opioid overdose reversal medication" has the meaning provided in RCW 69.41.095.

(b) "Practitioner" has the meaning provided in RCW 18.64.011.

NEW SECTION. Sec. 4. A new section is added to chapter 71.24 RCW to read as follows:

(1) For any client presenting with symptoms of an opioid use disorder, or who reports recent use of opioids outside legal authority, all licensed or certified behavioral health agencies that provide individuals treatment for mental health or substance use disorder, withdrawal management, secure withdrawal management, evaluation and treatment, or opioid treatment programs must during the client's intake, discharge, or treatment plan review, as appropriate:

(a) Inform the client about opioid overdose reversal medication and ask whether the client has opioid overdose reversal medication; and

(b) If a client does not possess opioid overdose reversal medication, unless the behavioral health provider determines using clinical and professional judgment that opioid overdose reversal medication is not appropriate, the behavioral health provider must:

(i) Prescribe the client opioid overdose reversal medication or utilize the statewide naloxone standing order; and

(ii) Assist the client in directly obtaining opioid overdose reversal medication as soon as practical by:

(A) Directly dispensing the opioid overdose reversal medication, if authorized by state law;

(B) Partnering with a pharmacy to obtain the opioid overdose reversal medication on the client's behalf and distributing the opioid overdose reversal medication to the client;

(C) Assisting the client in utilizing a mail order pharmacy or pharmacy that mails prescription drugs directly to the behavioral health agency or client and distributing the opioid overdose reversal medication to the client, if necessary;

(D) Obtaining and distributing opioid overdose reversal medication through the bulk purchasing and distribution program established in section 7 of this act; or

(E) Using any other resources or means authorized by state law to provide opioid overdose reversal medication.

(2) Until the opioid overdose reversal medication bulk purchasing and distribution program established in section 7 of this act is operational, if a behavioral health agency listed in subsection (1) of this section dispenses, distributes, or otherwise assists the client in directly obtaining the opioid overdose reversal medication such that the agency is the billing entity, the behavioral health agency must:

(a) For clients enrolled in medical assistance under chapter 74.09 RCW, bill the client's medicaid benefit for the client's opioid overdose reversal medication utilizing the appropriate billing codes established by the health care authority.

(b) For clients with available health insurance coverage other than medical assistance under chapter 74.09 RCW, bill the client's health plan for the cost of the opioid overdose reversal medication.

(c) For clients who are not enrolled in medical assistance under chapter 74.09 RCW and do not have any other available health insurance coverage, bill the health care authority for the cost of the client's opioid overdose reversal medication.

(3) A pharmacy that dispenses opioid overdose reversal medication through a partnership or relationship with a behavioral health agency as described in subsection (1) of this section must bill the health care authority for the cost of the client's opioid overdose reversal medication for clients that are not enrolled in medical assistance under chapter 74.09 RCW and do not have any other available health insurance coverage.

(4) The labeling requirements of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose reversal medication dispensed or delivered in accordance with this section.

(5) A person who is provided opioid overdose reversal medication under this section must be provided information and resources about medication for opioid use disorder and harm reduction strategies and services which may be

available, such as substance use disorder treatment services and substance use disorder peer counselors. This information should be available in all languages relevant to the communities that the behavioral health agency serves.

(6) The individual or entity that dispenses, distributes, or delivers an opioid overdose reversal medication in accordance with this section shall ensure that the directions for use are provided.

(7) Actions taken in compliance with subsection (1) of this section by an entity that provides only mental health treatment may not be construed as the entity holding itself out as providing or in fact providing substance use disorder diagnosis, treatment, or referral for treatment for purposes of state or federal law.

(8) A behavioral health agency, its employees, and providers are immune from suit in any action, civil or criminal, or from professional or other disciplinary action, for action or inaction in compliance with this section.

(9) For purposes of this section, "opioid overdose reversal medication" has the meaning provided in RCW 69.41.095.

NEW SECTION. Sec. 5. A new section is added to chapter 74.09 RCW to read as follows:

Until the opioid overdose reversal medication bulk purchasing and distribution program established in section 7 of this act is operational:

(1) Upon initiation or renewal of a contract with the authority to administer a medicaid managed care plan, a managed care organization must reimburse a hospital or behavioral health agency for dispensing or distributing opioid overdose reversal medication to a covered person under sections 3 and 4 of this act.

(2) If the person is not enrolled in a medicaid managed care plan and does not have any other available insurance coverage, the authority must reimburse a hospital, behavioral health agency, or pharmacy for dispensing or distributing opioid overdose reversal medication under sections 3 and 4 of this act.

NEW SECTION. Sec. 6. A new section is added to chapter 74.09 RCW to read as follows:

(1) The authority, in consultation with the department of health, the office of the insurance commissioner, and the addictions, drug, and alcohol institute at the University of Washington, shall provide technical assistance to hospitals and licensed or certified, behavioral health agencies to assist these entities, practitioners, and providers in complying with sections 3 and 4 of this act. The technical assistance provided to behavioral health agencies must include:

(a) Training nonmedical providers on distributing and providing client education and directions for use of opioid overdose reversal medication;

(b) Providing written guidance for billing for opioid overdose reversal medication; and

(c) Analyzing the cost of additional behavioral health agency staff time to carry out the activities in section 4 of this act, and providing written guidance no later than January 1, 2022, for funding and billing direct service activities related to assisting clients to obtain opioid overdose reversal medication.

(2) The authority shall develop written materials in all relevant languages for each hospital and applicable licensed or certified behavioral health agency to comply with sections 3 and 4 of this act, including directions for the use of

opioid overdose reversal medication, and provide them to all hospitals and behavioral health agencies by January 1, 2022.

NEW SECTION. Sec. 7. A new section is added to chapter 70.14 RCW to read as follows:

(1) As soon as reasonably practicable, the health care authority shall establish a bulk purchasing and distribution program for opioid overdose reversal medication. The health care authority is authorized to:

(a) Purchase or enter into contracts as necessary to purchase and distribute opioid overdose reversal medication, collect an assessment, and administer the program;

(b) Bill, charge, and receive payment from health carriers, managed health care systems, and to the extent that any self-insured health plans choose to participate, self-insured health plans; and

(c) Perform any other functions as may be necessary or proper to establish and administer the program.

(2) To establish and administer the opioid overdose reversal medication bulk purchasing and distribution program, the health care authority may adopt rules providing the following:

(a) A dosage-based assessment and formula to determine the assessment for each opioid overdose reversal medication provided to an individual through the program that includes administrative costs of the program;

(b) The mechanism, requirements, and timeline for health carriers, managed health care systems, and self-insured plans to pay the dosage-based assessments;

(c) The types of health care facilities, health care providers, or other entities that are required to or are permitted to participate in the program;

(d) The billing procedures for any participating health care facility, health care provider, or other entity participating in the program; and

(e) Any other rules necessary to establish, implement, or administer the program.

(3) The following agencies, health plans, and insurers must participate in the bulk purchasing and distribution program:

(a) Health carriers;

(b) Managed health care systems administering a medicaid managed care plan; and

(c) The health care authority for purposes of:

(i) Health plans offered to public employees and their dependents;

(ii) Individuals enrolled in medical assistance under chapter 74.09 RCW that are not enrolled in a managed care plan; and

(iii) Uninsured individuals.

(4) The health care authority may establish an interest charge for late payment of any assessment under this section. The health care authority shall assess a civil penalty against any health carrier, managed health care system, or self-insured health plan that fails to pay an assessment within three months of billing. The civil penalty under this subsection is 150 percent of such assessment. The health care authority is authorized to file liens and seek judgment to recover amounts in arrears and civil penalties, and recover reasonable collection costs, including reasonable attorneys' fees and costs. Civil penalties so levied must be deposited in the opioid overdose reversal medication account created in section 8 of this act.

(5) The health care authority in coordination with the office of the insurance commissioner may recommend to the appropriate committees of the legislature the termination of the bulk purchasing and distribution mechanism for opioid overdose reversal medication if it finds that the original intent of its formation and operation has not been achieved.

(6) By January 1, 2022, the health care authority shall submit a report to the legislature on the progress towards establishing the bulk purchasing and distribution program. The health care authority shall submit an updated report on the progress towards establishing the bulk purchasing and distribution program by January 1, 2023.

(7) By July 1, 2025, the health care authority shall submit recommendations to the appropriate committees of the legislature on whether and how the opioid overdose reversal medication bulk purchasing and distribution program may be expanded to include other prescription drugs.

(8) "Opioid overdose reversal medication" has the same meaning as provided in RCW 69.41.095.

NEW SECTION. Sec. 8. A new section is added to chapter 70.14 RCW to read as follows:

The opioid overdose reversal medication account is created in the custody of the state treasurer. All receipts from collections under section 7 of this act must be deposited into the account. Expenditures from the account may be used only for the operation and administration of the opioid overdose reversal medication bulk purchasing and distribution program identified in section 7 of this act. Only the director of the health care authority or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 9. RCW 39.26.125 and 2012 c 224 s 14 are each amended to read as follows:

All contracts must be entered into pursuant to competitive solicitation, except for:

- (1) Emergency contracts;
- (2) Sole source contracts that comply with the provisions of RCW 39.26.140;
- (3) Direct buy purchases, as designated by the director. The director shall establish policies to define criteria for direct buy purchases. These criteria may be adjusted to accommodate special market conditions and to promote market diversity for the benefit of the citizens of the state of Washington;
- (4) Purchases involving special facilities, services, or market conditions, in which instances of direct negotiation is in the best interest of the state;
- (5) Purchases from master contracts established by the department or an agency authorized by the department;
- (6) Client services contracts;
- (7) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process when the director determines that a competitive solicitation process is not appropriate or cost-effective;
- (8) Off-contract purchases of Washington grown food when such food is not available from Washington sources through an existing contract. However,

Washington grown food purchased under this subsection must be of an equivalent or better quality than similar food available through the contract and must be able to be paid from the agency's existing budget. This requirement also applies to purchases and contracts for purchases executed by state agencies, including institutions of higher education as defined in RCW 28B.10.016, under delegated authority granted in accordance with this chapter or under RCW 28B.10.029;

(9) Contracts awarded to companies that furnish a service where the tariff is established by the utilities and transportation commission or other public entity;

(10) Intergovernmental agreements awarded to any governmental entity, whether federal, state, or local and any department, division, or subdivision thereof;

(11) Contracts for services that are necessary to the conduct of collaborative research if the use of a specific contractor is mandated by the funding source as a condition of granting funds;

(12) Contracts for architectural and engineering services as defined in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;

(13) Contracts for the employment of expert witnesses for the purposes of litigation; ~~((and))~~

(14) Contracts for bank supervision authorized under RCW ~~((30.38.040))~~ 30A.38.040; and

(15) Contracts for the purchase of opioid overdose reversal medication authorized under section 7 of this act.

NEW SECTION. Sec. 10. A new section is added to chapter 41.05 RCW to read as follows:

A health plan offered to public employees and their covered dependents under this chapter that is issued or renewed on or after January 1, 2023, must participate in the bulk purchasing and distribution program for opioid overdose reversal medication established in section 7 of this act once the program is operational.

NEW SECTION. Sec. 11. A new section is added to chapter 48.43 RCW to read as follows:

For health plans issued or renewed on or after January 1, 2023, health carriers must participate in the opioid overdose reversal medication bulk purchasing and distribution program established in section 7 of this act once the program is operational. A health plan may not impose enrollee cost sharing related to opioid overdose reversal medication provided through the bulk purchasing and distribution program established in section 7 of this act.

NEW SECTION. Sec. 12. A new section is added to chapter 74.09 RCW to read as follows:

(1) Upon initiation or renewal of a contract with the authority to administer a medicaid managed care plan, a managed health care system must participate in the opioid overdose reversal medication bulk purchasing and distribution program established in section 7 of this act once the program is operational.

(2) The health care authority must participate in the opioid overdose reversal medication bulk purchasing and distribution program established in section 7 of this act once the program is operational for purposes of individuals

enrolled in medical assistance under this chapter that are not enrolled in a managed care plan and are uninsured individuals.

NEW SECTION. Sec. 13. (1) The health care authority may adopt rules necessary to implement sections 7 through 12 of this act.

(2) The insurance commissioner may adopt rules necessary to implement sections 7 and 11 of this act.

NEW SECTION. Sec. 14. Sections 2 through 4 of this act take effect January 1, 2022.

Passed by the Senate April 19, 2021.

Passed by the House April 9, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 274

[Engrossed Substitute Senate Bill 5203]

GENERIC PRESCRIPTION DRUGS—PARTNERSHIP AGREEMENTS

AN ACT Relating to the production, distribution, and purchase of generic prescription drugs and distribution or purchase of insulin; amending RCW 70.14.060; and adding a new section to chapter 70.14 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 70.14 RCW to read as follows:

(1)(a) The authority may enter into partnership agreements with another state, a group of states, a state agency, a nonprofit organization, or any other entity to produce, distribute, or purchase generic prescription drugs and distribute and purchase insulin. Partnership agreements with governmental entities are exempt from competitive solicitation requirements in accordance with RCW 39.26.125(10). However, the authority must comply with state procurement laws related to competitive procurement when purchasing or entering into purchasing agreements with nongovernmental entities.

(b) The generic prescription drugs and insulin must be produced or distributed by a drug company or generic drug manufacturer that is registered with the United States food and drug administration.

(2) The authority shall only enter into partnerships, in consultation with other state agencies as necessary, to produce, distribute, or purchase a generic prescription drug or insulin at a price that results in savings to public and private purchasers and consumers.

(3) For generic prescription drugs and insulin that the authority has entered into a partnership under this section:

(a) State purchased health care programs must purchase the generic prescription drugs and insulin through the partnership, unless the state purchased health care program can obtain the generic prescription drug or insulin at a cost savings through another purchasing mechanism; and

(b) Local governments, private entities, health carriers, and others may choose to voluntarily purchase the generic prescription drugs and insulin from the authority as available quantities allow.

(4) All information and documents obtained or created under this section is exempt from disclosure under chapter 42.56 RCW.

(5) For purposes of this section, the following definitions apply:

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

(b) "Eligible prescription drug" means a prescription drug or biological product, as defined in 42 U.S.C. Sec. 262(i), that is not under patent.

(c) "Generic drug" means a drug that is approved pursuant to an application referencing an eligible prescription drug that is submitted under section 505(j) of the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.), or section 351(k) of the federal public health service act (42 U.S.C. Sec. 262).

(d) "Purchase" means the acquisition of generic drugs and insulin. "Purchase" includes, but is not limited to, entering into contracts with manufacturers on behalf of those dispensing drugs and other innovative purchasing strategies to help increase access for Washington citizens to the best price available for insulin and generic prescription drugs. This subsection should be interpreted broadly to provide the authority flexibility in how it procures generic drugs and insulin in order to obtain the best price.

(e) "State purchased health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, department of health, state health care authority, department of labor and industries, department of corrections, and department of veterans affairs. State purchased health care does not include prescription drugs purchased for medical assistance program clients under chapter 74.09 RCW.

Sec. 2. RCW 70.14.060 and 2020 c 346 s 4 are each amended to read as follows:

(1)(a) The (~~administrator~~ ~~director~~) director of the state health care authority shall, directly or by contract, adopt policies necessary for establishment of a prescription drug purchasing consortium. The consortium's purchasing activities shall be based upon the evidence-based prescription drug program established under RCW 70.14.050. (~~State~~) Except as provided in section 1 of this act or exempted under (b) of this subsection, state purchased health care programs as defined in RCW 41.05.011 shall purchase prescription drugs through the consortium for those prescription drugs that are purchased directly by the state and those that are purchased through reimbursement of pharmacies(~~, unless exempted under (b) of this subsection~~). The (~~administrator~~ ~~director~~) director shall not require any supplemental rebate offered to the health care authority by a pharmaceutical manufacturer for prescription drugs purchased for medical assistance program clients under chapter 74.09 RCW be extended to any other state purchased health care program, or to any other individuals or entities participating in the consortium. The (~~administrator~~ ~~director~~) director shall explore joint purchasing opportunities with other states.

(b) State purchased health care programs are exempt from the requirements of this section if they can demonstrate to the (~~administrator~~ ~~director~~) director of the state health care authority that, as a result of the availability of federal programs or other purchasing arrangements, their other purchasing mechanisms will result in greater discounts and aggregate cost savings than would be realized through participation in the consortium.

(2) Participation in the purchasing consortium shall be offered as an option beginning January 1, 2006. Participation in the consortium is purely voluntary for units of local government, private entities, labor organizations, health carriers as provided in RCW 48.43.005, state purchased health care services from or through health carriers as provided in RCW 48.43.005, and for individuals who lack or are underinsured for prescription drug coverage. The (~~administrator~~ ~~[director]~~) director may set reasonable fees, including enrollment fees, to cover administrative costs attributable to participation in the prescription drug consortium.

(3) The state health care authority is authorized to adopt rules implementing chapter 129, Laws of 2005.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate April 21, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 275

[Engrossed Second Substitute Senate Bill 5227]

HIGHER EDUCATION—DIVERSITY, EQUITY, INCLUSION, AND ANTIRACISM TRAINING AND ASSESSMENTS

AN ACT Relating to diversity, equity, inclusion, and antiracism training and assessments at institutions of higher education; adding new sections to chapter 28B.10 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 postsecondary credential such as a degree, apprenticeship, or certificate is increasingly necessary to obtain a job that offers a good salary and advancement opportunities and that increasing the number of students in Washington who obtain such a credential is essential to the state's economic success. The legislature also recognizes that equity gaps remain among postsecondary students and that those gaps particularly impact students from historically marginalized communities.

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

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

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

(1) Each institution of higher education must:

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

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

(c)(i) Share completed evaluations of program participants annually with either the state board for community and technical colleges or an organization representing the presidents of the public four-year institutions of higher education, depending on the institution; and (ii) submit curriculum and other pertinent information regarding the program beginning July 1, 2023, and, subsequently, if there is a meaningful change or by request of the reporting entity.

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

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

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

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

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

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

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

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

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

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

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

education. The institutions of higher education must also publish annually on the institution's public website the results of either the campus climate assessment or listening and feedback sessions.

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

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

(1) Each institution of higher education must:

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

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

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

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

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

(5) The institutions of higher education shall adopt rules as necessary or appropriate for effecting the provisions of this section, not in conflict with this

chapter, and in accordance with the provisions of chapter 34.05 RCW, the administrative procedure act.

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

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

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

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

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

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

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

Passed by the Senate April 19, 2021.

Passed by the House April 9, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 276

[Engrossed Substitute Senate Bill 5229]

HEALTH CARE PROFESSIONALS—HEALTH EQUITY CONTINUING EDUCATION

AN ACT Relating to health equity continuing education for health care professionals; amending RCW 43.70.615; adding a new section to chapter 43.70 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:

(1) Healthy Washingtonians contribute to the economic and social welfare of their families and communities, and access to health services and improved health outcomes allows all Washington families to enjoy productive and satisfying lives;

(2) The COVID-19 pandemic has further exposed that health outcomes are experienced differently by different people based on discrimination and bias by the health care system. Research shows that health care resources are distributed

unevenly by intersectional categories including, but not limited to, race, gender, ability status, religion, sexual orientation, socioeconomic status, and geography; and

(3) These inequities have permeated health care delivery, deepening adverse outcomes for marginalized communities. This bill aims to equip health care workers with the skills to recognize and reduce these inequities in their daily work. In addition to their individual impact, health care workers need the skills to address systemic racism and bias.

NEW SECTION. Sec. 2. A new section is added to chapter 43.70 RCW to read as follows:

(1) By January 1, 2024, the rule-making authority for each health profession licensed under Title 18 RCW subject to continuing education requirements must adopt rules requiring a licensee to complete health equity continuing education training at least once every four years.

(2) Health equity continuing education courses may be taken in addition to or, if a rule-making authority determines the course fulfills existing continuing education requirements, in place of other continuing education requirements imposed by the rule-making authority.

(3)(a) The secretary and the rule-making authorities must work collaboratively to provide information to licensees about available courses. The secretary and rule-making authorities shall consult with patients or communities with lived experiences of health inequities or racism in the health care system and relevant professional organizations when developing the information and must make this information available by July 1, 2023. The information should include a course option that is free of charge to licensees. It is not required that courses be included in the information in order to fulfill the health equity continuing education requirement.

(b) By January 1, 2023, the department, in consultation with the boards and commissions, shall adopt model rules establishing the minimum standards for continuing education programs meeting the requirements of this section. The department shall consult with patients or communities with lived experience of health inequities or racism in the health care system, relevant professional organizations, and the rule-making authorities in the development of these rules.

(c) The minimum standards must include instruction on skills to address the structural factors, such as bias, racism, and poverty, that manifest as health inequities. These skills include individual-level and system-level intervention, and self-reflection to assess how the licensee's social position can influence their relationship with patients and their communities. These skills enable a health care professional to care effectively for patients from diverse cultures, groups, and communities, varying in race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity. The courses must assess the licensee's ability to apply health equity concepts into practice. Course topics may include, but are not limited to:

(i) Strategies for recognizing patterns of health care disparities on an individual, institutional, and structural level and eliminating factors that influence them;

(ii) Intercultural communication skills training, including how to work effectively with an interpreter and how communication styles differ across cultures;

(iii) Implicit bias training to identify strategies to reduce bias during assessment and diagnosis;

(iv) Methods for addressing the emotional well-being of children and youth of diverse backgrounds;

(v) Ensuring equity and antiracism in care delivery pertaining to medical developments and emerging therapies;

(vi) Structural competency training addressing five core competencies:

(A) Recognizing the structures that shape clinical interactions;

(B) Developing an extraclinical language of structure;

(C) Rearticulating "cultural" formulations in structural terms;

(D) Observing and imagining structural interventions; and

(E) Developing structural humility; and

(vii) Cultural safety training.

(4) The rule-making authority may adopt rules to implement and administer this section, including rules to establish a process to determine if a continuing education course meets the health equity continuing education requirement established in this section.

(5) For purposes of this section the following definitions apply:

(a) "Rule-making authority" means the regulatory entities identified in RCW 18.130.040 and authorized to establish continuing education requirements for the health care professions governed by those regulatory entities.

(b) "Structural competency" means a shift in medical education away from pedagogic approaches to stigma and inequalities that emphasize cross-cultural understandings of individual patients, toward attention to forces that influence health outcomes at levels above individual interactions. Structural competency reviews existing structural approaches to stigma and health inequities developed outside of medicine and proposes changes to United States medical education that will infuse clinical training with a structural focus.

(c) "Cultural safety" means an examination by health care professionals of themselves and the potential impact of their own culture on clinical interactions and health care service delivery. This requires individual health care professionals and health care organizations to acknowledge and address their own biases, attitudes, assumptions, stereotypes, prejudices, structures, and characteristics that may affect the quality of care provided. In doing so, cultural safety encompasses a critical consciousness where health care professionals and health care organizations engage in ongoing self-reflection and self-awareness and hold themselves accountable for providing culturally safe care, as defined by the patient and their communities, and as measured through progress towards achieving health equity. Cultural safety requires health care professionals and their associated health care organizations to influence health care to reduce bias and achieve equity within the workforce and working environment.

Sec. 3. RCW 43.70.615 and 2006 c 237 s 2 are each amended to read as follows:

(1) For the purposes of this section, "multicultural health" means the provision of health care services with the knowledge and awareness of the causes and effects of the determinants of health that lead to disparities in health status between different genders and racial and ethnic populations and the practice skills necessary to respond appropriately.

(2) The department, in consultation with the disciplining authorities as defined in RCW 18.130.040, shall establish, within available department general funds, an ongoing multicultural health awareness and education program as an integral part of its health professions regulation. The purpose of the education program is to raise awareness and educate health care professionals regarding the knowledge, attitudes, and practice skills necessary to care for diverse populations to achieve a greater understanding of the relationship between culture and health. ~~((The disciplining authorities having the authority to offer continuing education may provide training in the dynamics of providing culturally competent, multicultural health care to diverse populations.))~~ Any such education shall be developed in collaboration with education programs that train students in that health profession. ~~((A disciplining authority may require that instructors of continuing education or continuing competency programs integrate multicultural health into their curricula when it is appropriate to the subject matter of the instruction.))~~ No funds from the health professions account may be utilized to fund activities under this section unless the disciplining authority authorizes expenditures from its proportions of the account. ~~((A disciplining authority may defray costs by authorizing a fee to be charged for participants or materials relating to any sponsored program.))~~

(3) By July 1, 2008, each education program with a curriculum to train health professionals for employment in a profession credentialed by a disciplining authority under chapter 18.130 RCW shall integrate into the curriculum instruction in multicultural health as part of its basic education preparation curriculum. The department may not deny the application of any applicant for a credential to practice a health profession on the basis that the education or training program that the applicant successfully completed did not include integrated multicultural health curriculum as part of its basic instruction.

Passed by the Senate April 15, 2021.

Passed by the House March 24, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 277

[Substitute Senate Bill 5236]

PSYCHIATRIC HOSPITALS—CERTIFICATES OF NEED EXEMPTIONS

AN ACT Relating to extending the exemption from certificate of need requirements for the expansion of psychiatric bed capacity; amending RCW 70.38.111 and 70.38.260; providing an effective date; and declaring an emergency.

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

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

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

(a) A health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand

individuals, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination;

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

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

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

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

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

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

subsection if it determines that the applicable requirements of subsection (1) of this section are met.

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

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

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

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

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

(i) Offers services only to contractual members;

(ii) Provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some assistance with daily living activities;

(iii) Contractually assumes responsibility for the cost of services exceeding the member's financial responsibility under the contract, so that no third party, with the exception of insurance purchased by the retirement community or its members, but including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources;

(iv) Has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home;

(v) Maintains a binding agreement with the state assuring that financial liability for services to members, including nursing home services, will not fall upon the state;

(vi) Does not operate, and has not undertaken a project that would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and

(vii) Has obtained a professional review of pricing and long-term solvency within the prior five years which was fully disclosed to members.

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

(i) It has submitted an application for exemption at least thirty days prior to commencing construction of, is submitting an application for the licensure of, or is commencing operation of a nursing home, whichever comes first; and

(ii) The application documents to the department that the continuing care retirement community qualifies for exemption.

(c) The sale, lease, acquisition, or use of part or all of a continuing care retirement community nursing home that qualifies for exemption under this subsection shall require prior certificate of need approval to qualify for licensure as a nursing home unless the department determines such sale, lease, acquisition, or use is by a continuing care retirement community that meets the conditions of (a) of this subsection.

(6) A rural hospital, as defined by the department, reducing the number of licensed beds to become a rural primary care hospital under the provisions of Part A Title XVIII of the Social Security Act Section 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction of beds licensed under chapter 70.41 RCW, increase the number of licensed beds to no more than the previously licensed number without being subject to the provisions of this chapter.

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

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

(9)(a) A nursing home that voluntarily reduces the number of its licensed beds to provide assisted living, licensed assisted living facility care, adult day care, adult day health, respite care, hospice, outpatient therapy services, congregate meals, home health, or senior wellness clinic, or to reduce to one or two the number of beds per room or to otherwise enhance the quality of life for residents in the nursing home, may convert the original facility or portion of the facility back, and thereby increase the number of nursing home beds to no more

than the previously licensed number of nursing home beds without obtaining a certificate of need under this chapter, provided the facility has been in continuous operation and has not been purchased or leased. Any conversion to the original licensed bed capacity, or to any portion thereof, shall comply with the same life and safety code requirements as existed at the time the nursing home voluntarily reduced its licensed beds; unless waivers from such requirements were issued, in which case the converted beds shall reflect the conditions or standards that then existed pursuant to the approved waivers.

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

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

(ii) Give notice to the department of health and to the department of social and health services of the intent to convert beds back. If construction is required for the conversion of beds back, the notice of intent to convert beds back must be given, at a minimum, one year prior to the effective date of license modification reflecting the restored beds; otherwise, the notice must be given a minimum of ninety days prior to the effective date of license modification reflecting the restored beds. Prior to any license modification to convert beds back to nursing home beds under this section, the licensee must demonstrate that the nursing home meets the certificate of need exemption requirements of this section.

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

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

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

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

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

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

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

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

social, cultural, and religious needs of a specific cultural and ethnic minority group;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The exemption under this subsection:

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

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

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

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

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

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

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

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

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

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

(3)(a) Until June 30, ~~((2024))~~ 2023, a psychiatric hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements for the one-time addition of up to ~~((thirty))~~ 30 new psychiatric beds ~~((, and for the one-time addition of up to sixty psychiatric beds devoted solely to ninety-day and one hundred eighty-day civil commitment patients if the hospital was awarded any grant by the department of commerce to increase behavioral health capacity in fiscal year 2019 and))~~ devoted solely for 90-day and 180-day civil commitment services and for the one-time addition of up to 30 new voluntary psychiatric beds or involuntary psychiatric beds for patients on a 120-hour detention or 14-day civil commitment order, if the hospital makes a commitment to maintain a payer mix of at least fifty percent medicare and medicaid based on a calculation using patient days for a period of five consecutive years after the beds are made available for use by patients, if it demonstrates to the satisfaction of the department:

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

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

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

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

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

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

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

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

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

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

(c) Entities granted an exemption under RCW 70.38.111(11)(b)(ii) may not exceed sixteen beds unless a certificate of need is granted to increase the psychiatric hospital's capacity.

(5) This section expires June 30, 2025.

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

Passed by the Senate April 19, 2021.

Passed by the House March 28, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 278

[Second Substitute Senate Bill 5253]

POLLINATOR HEALTH—VARIOUS PROVISIONS

AN ACT Relating to implementing the recommendations of the pollinator health task force; amending RCW 43.23.300, 17.24.081, 77.12.058, and 89.08.620; adding a new section to chapter 43.23 RCW; adding a new section to chapter 17.21 RCW; adding a new section to chapter 28B.30 RCW; adding a new section to chapter 39.04 RCW; adding a new section to chapter 89.08 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 purpose of this act is to implement the recommendations of the pollinator health task force created by section 3, chapter 353, Laws of 2019, entitled "Recommendations of the Pollinator Health Task Force - for Pollinator Health in Washington" (November 2020).

(2) The task force provided recommendations to help prioritize and enact policy changes for pollinators in Washington. The recommendations are organized under five broad categories: (a) Habitat; (b) pesticides; (c) education; (d) managed pollinators; and (e) research.

(3) The task force met for the first time the same week that the Asian giant hornet was first discovered in Washington and the week after the Houdini fly was also reported for the first time in Washington. Asian giant hornets primarily hunt honey bees and destroy entire honey bee hives. The Houdini fly threatens native mason bee populations as well as managed mason bees. Washington is home to over 400 different species of native bees, 65 species of butterflies, as well as moths, wasps, beetles, flies, and hummingbirds. The loss of pollinators, managed and unmanaged, can lead to decreased yields of many fruits, nuts, and vegetables. Washington is currently the top producer in the United States of apples, sweet cherries, alfalfa, blueberries, and pears. In Washington state, honey bees and other pollinators are responsible for the production of tree fruits, small fruits, and other crops.

(4) The legislature intends by this act to implement various recommendations from the pollinator health task force to protect and expand the habitat upon which pollinators depend, by providing technical and financial assistance to public and private landowners, and by coordinating with state agencies and local governments in promoting practices to ensure sustainable, healthy populations of managed and native pollinators.

NEW SECTION. Sec. 2. A new section is added to chapter 43.23 RCW to read as follows:

(1) The department shall create and chair a pollinator health task force. The department shall appoint the members of the task force, which must include, but is not limited to, representatives of the following interests, organizations, and state agencies:

- (a) The conservation commission;
- (b) The department of natural resources;
- (c) The department of fish and wildlife;
- (d) The state parks and recreation commission;
- (e) The Washington state department of transportation;
- (f) The state noxious weed control board;
- (g) The tree fruit industry;
- (h) The seed industry;
- (i) The berry industry;
- (j) Other agricultural industries dependent upon pollinators;
- (k) Washington State University;
- (l) Pesticide distributors and applicators;
- (m) Conservation organizations;
- (n) Organizations representing beekeepers or apiarists;
- (o) A member of the public from west of the crest of the Cascade mountains; and
- (p) A member of the public from east of the crest of the Cascade mountains.

(2) One or more representatives of Washington tribes must also be invited to participate on the task force.

(3) One youth representative from an organization that encourages students to engage in agricultural education must also be invited to participate on the task force when available.

(4) The task force shall build upon existing pollinator research and pollinator habitat plans at the national and state level including, but not limited to, the state-managed pollinator plan, to assist with the development of an implementation plan to implement the state pollinator health strategy.

(5) The task force shall assist, as practicable, with implementation of the recommendations of the task force submitted to the legislature in November 2020.

(6) The department shall provide the implementation plan to the appropriate committees of the senate and house of representatives by December 31, 2021, in compliance with RCW 43.01.036. The implementation plan must include the task force's evaluation and development of protocols that would increase communications between beekeepers, farmers and growers, and pesticide applicators including, but not limited to, education and outreach to beekeepers, farmers and growers, and pesticide applicators.

(7) The department shall provide information related to implementation of the state pollinator health strategy and a recommendation of whether to extend the task force beyond January 1, 2024, to the appropriate committees of the senate and house of representatives by December 1, 2022, in compliance with RCW 43.01.036.

(8) This section expires January 1, 2024.

Sec. 3. RCW 43.23.300 and 2019 c 353 s 2 are each amended to read as follows:

(1) The department shall establish a program to promote and protect pollinator habitat and the health and sustainability of pollinator species. As funds are made available, the program must provide technical and financial assistance to state agencies, local governments, and private landowners to implement practices that promote habitat for ~~((managed))~~ all pollinators, including native species, as well as beekeeper and grower best management practices. The program must be administered in coordination with the apiary program established in chapter 15.60 RCW, the honey bee commission authorized in chapter 15.62 RCW, and programs administered by the conservation commission and conservation districts.

(2) Subject to the availability of funds appropriated for this specific purpose, and in consultation with the department of fish and wildlife, the department must:

(a) Review, in consultation with Washington State University, education needs related to pollinator education and develop a plan that outlines the goals related to pollinator education and the necessary partners, personnel, and other resources;

(b) Evaluate and complete an analysis of critical impacts and needed best management practices for managed and wild pollinators. The department shall lead this effort in partnership with Washington State University, and in collaboration with the department of fish and wildlife and the state conservation commission. The effort must utilize the framework established in the state's

managed pollinator protection plan as a guide for formal recommendations and education opportunities. The analysis must address food insecurities, habitat loss, virus and disease, pests, and pesticides, which may play a role in pollinator health decline. The department shall make the resources produced pursuant to this subsection available to the public on the department's website, as well as through Washington State University and the state's conservation districts;

(c) Document, in consultation with Washington State University, the bee species within the state and map their distributions as practicable;

(d) Provide economic and environmental impacts of weed listing and categorization on pollinator health to county noxious weed control boards in consultation with the state noxious weed control board and annually submit a report to the noxious weed control board describing pollinator health issues;

(e) Provide materials, where practicable and in consultation with Washington State University, about certification programs that support pollinator health, biodiversity, and low-impact pesticide application to the public;

(f) Educate the public through plant nurseries about the necessity for blooming nectar plants to be available to wild and managed pollinators throughout their respective active seasons;

(g) Survey registered beekeepers to determine whether the current apiary program should be expanded to include apiary inspections or registration of apiary yards;

(h) Continue and maintain partnership with federal agencies and neighboring states to promote and enhance the implementation of the national strategy to promote the health of honey bees and improve pollinator health;

(i) Increase the availability of pollinator-related resources on the department's website, as practicable, and other state agencies' websites as appropriate;

(j) Review guidelines on state-managed lands to protect native pollinators and improve transparency for state-managed land areas which may permit managed honey bees so that impacts to wild pollinators from honey bees may be minimized; and

(k) In consultation with the department of revenue, review the open space taxation act and provide recommendations to the legislature, in compliance with RCW 43.01.036, on options to include pollinator habitat in the current open space property tax classification.

NEW SECTION, Sec. 4. A new section is added to chapter 17.21 RCW to read as follows:

(1) The department shall continue to evaluate and update, as necessary, pesticide regulatory and education programs focused on measures to protect pollinator health. This work by the department, when appropriate, must be coordinated with Washington State University pesticide education programs to limit duplication and ensure consistent information sharing.

(2) Subject to the availability of amounts appropriated for this specific purpose, and in consultation with the department of fish and wildlife with regard to considerations for native pollinator species, the department must:

(a) Evaluate and adapt pesticide training and drift reduction technical assistance programs to include up-to-date protection measures for pollinators;

(b) Support Washington State University's pesticide education programs continued incorporation of pollinator protection measures during their training and certification classes, and coordinate on presented research, new protection measures, technological advancements, and any other significant science-based information;

(c) Coordinate with pollinator health staff in the department and at Washington State University to conduct investigations and share annual findings from pesticide-related investigations with the pollinator health task force;

(d) Evaluate and, if necessary, update the pesticide civil penalty matrix related to pollinator death or damage due to the misuse of pesticides and ensure pollinator health protections are included;

(e) When possible, the department must provide credits for pesticide courses focused on pollinator protection measures.

(3) By December 31, 2021, the department shall provide a report to the appropriate committees of the senate and house of representatives, in compliance with RCW 43.01.036, that includes recommendations for measures to mitigate the risks of harm to bees and other pollinators from the use of neonicotinoid pesticides and treated seeds. The department shall evaluate and incorporate the reviews scheduled for completion by the United States environmental protection agency during 2021, including recommended mitigation measures from that agency. The department shall also review neonicotinoid pesticide use restrictions and labeling requirements adopted in other states and include in the report any recommendations for adoption of similar requirements in this state.

Sec. 5. RCW 17.24.081 and 1991 c 257 s 12 are each amended to read as follows:

It shall be unlawful for a person to:

(1) Sell, offer for sale, or distribute a noxious weed or a plant or plant product or regulated article infested or infected with a plant pest declared by rule to be a threat to the state's forest, agricultural, horticultural, floricultural, or beekeeping industries or environment;

(2) Knowingly receive a noxious weed, or a plant, plant product, bees, bee hive or appliances, or regulated article sold, given away, carried, shipped, or delivered for carriage or shipment within this state, in violation of the provisions of this chapter or the rules adopted under this chapter;

(3) Fail to immediately notify the department and isolate and hold the noxious weed, bees, bee hives or appliances, plants or plant products, or other thing unopened or unused subject to inspection or other disposition as may be provided by the department, where the item has been received without knowledge of the violation and the receiver has become subsequently aware of the potential problem;

(4) Knowingly conceal or willfully withhold available information regarding an infected or infested plant, plant product, regulated article, or noxious weed;

(5) Introduce or move into this state, or to move or dispose of in this state, a plant, plant product, or other item included in a quarantine, except under rules as may be prescribed by the department, after a quarantine order has been adopted under this chapter against a place, nursery, orchard, vineyard, apiary, other agricultural establishment, county of this state, another state, territory, or a

foreign country as to a plant pest, bee pest, or noxious weed or genetically engineered plant or plant pest organism, until such quarantine is removed;

(6) Introduce or move nonnative managed bumble bees into this state to be used in open-field agricultural use.

NEW SECTION. Sec. 6. A new section is added to chapter 28B.30 RCW to read as follows:

The Washington State University extension program must develop a pollinator extension education and outreach program and develop a statewide, science-based, pollinator education plan to educate beekeepers, agricultural producers, land managers, licensed pesticide applicators, other professionals, and the public. The plan should emphasize pollinator best management practices for both native and managed species.

NEW SECTION. Sec. 7. A new section is added to chapter 39.04 RCW to read as follows:

If a public works project includes landscaping, at least 25 percent of the planted area must be pollinator habitat to the extent practicable. For purposes of this section, "pollinator habitat" means an area of land that is or may be developed as habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees. The department of agriculture, in consultation with the conservation commission and the department of fish and wildlife, must develop a list of native forage plants that are pollen-rich or nectar-rich and beneficial for all pollinators, including honey bees.

Sec. 8. RCW 77.12.058 and 2019 c 353 s 8 are each amended to read as follows:

(1) The department must implement practices necessary to maintain pollinator habitat on department-owned and managed agricultural and grazing lands where practicable. ((For the purposes of this section, "pollinator habitat" means an area of land that is or may be developed as habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees, as determined by the department-))

(2) The department must evaluate various restoration techniques with the goal of improving habitat for native pollinators. The department must update its riparian habitat recommendations to encourage development of pollinator habitat where practicable when making habitat improvements or for riparian restoration.

(3) For the purposes of this section, "pollinator habitat" means an area of land that is or may be developed as habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees, as determined by the department.

Sec. 9. RCW 89.08.620 and 2020 c 351 s 4 are each amended to read as follows:

(1) When prioritizing grant recipients, the commission, in consultation with the department of agriculture, Washington State University, the department of fish and wildlife, and the United States department of agriculture natural resources conservation service, shall seek to maximize the benefits of the grant program by leveraging other state, nonstate, public, and private sources of money. The primary metrics used to rank grant applications must be made public by the commission.

(2) The grant program must prioritize or weight projects based on consideration of the individual project's ability to:

(a) Increase the quantity of organic carbon in topsoil through practices including, but not limited to, cover cropping, no-till and minimum tillage conservation practices, crop rotations, manure application, biochar application, compost application, and changes in grazing management;

(b) Increase the quantity of organic carbon in aquatic soils;

(c) Intentionally integrate trees, shrubs, seaweed, or other vegetation into management of agricultural and aquacultural lands, with preference for native vegetation where practicable and appropriate;

(d) Reduce or avoid carbon dioxide equivalent emissions in or from soils;

(e) Reduce nitrous oxide and methane emissions through changes to livestock or soil management; and

(f) Increase usage of precision agricultural practices.

(3) The commission shall develop and approve a prioritization metric to guide the distribution of funds appropriated by the legislature for this purpose, with the goal of producing cost-effective carbon dioxide equivalent impact benefits.

(4) Applicants that create riparian buffers along waterways, or otherwise benefit fish habitat, must receive an enhanced prioritization compared to other grant applications that perform similarly under the prioritization metrics developed by the commission.

(5)(a) Applicants that create or maintain pollinator habitat must receive an enhanced prioritization compared to other grant applications that perform similarly under the prioritization metrics developed by the commission.

(b) For the purposes of this subsection, "pollinator habitat" means an area of land that is or may be developed as habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees, as determined by the department of agriculture.

(6) The commission shall downgrade a specific grant proposal within its prioritization metric if the proposal is expected to cause significant environmental damage to fish and wildlife habitat.

NEW SECTION. Sec. 10. A new section is added to chapter 89.08 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission is authorized to develop an ongoing small grants program to provide funding to the conservation districts to educate residents and community groups in urban, suburban, and rural nonfarm areas about the value of habitat for both managed and native pollinators, and to provide the necessary technical and financial assistance and materials to create it.

(2) Educational efforts should include the benefits of habitat diversity, especially pollen-rich and nectar-rich flowering forbs and shrubs. Preference for pollinator plants should be given to native plants or noninvasive, nonnative plants.

(3) Planting projects should provide diverse native or nonnative, noninvasive plants of high quality for pollinator foraging, nesting, and overwintering, as determined by site suitability. Options may include, but are not limited to, bee or eco-lawns, flowering meadow gardens, xeriscaping, shrub

plantings, tree plantings, rain gardens, riparian restoration, and other pollinator-friendly landscaping.

(4) Criteria to rank applicants should include a detailed budget demonstrating funding needs, resource concerns addressed, value to at-risk native pollinators, multiple-use benefits of habitat, planned project longevity, and plans for long-term maintenance.

Passed by the Senate April 14, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 279

[Substitute Senate Bill 5273]

SHORELINE ARMORING—REPLACEMENT—FISH LIFE IMPACT

AN ACT Relating to the replacement of shoreline armoring; amending RCW 77.55.231; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that the state of Washington will continue to be negatively impacted by the effects of climate change, including reduced winter snowpack, drought, increased frequencies of forest fires, and acidifying oceans that disrupt marine ecosystem viability. In the nearshore environment, climate change contributes to the rise in average sea-surface temperatures and rising sea levels. Hardened shoreline structures are not always well-suited for their intended purpose and may have unintended consequences in the nearshore environment. Soft shorelines or natural shorelines may protect and restore shoreline ecosystems through the use of natural plants and materials, and the legislature finds that landowners must consider alternatives to hardening shorelines to restore ecosystem function and recover threatened and endangered species to help address the impacts of climate change in the nearshore environment.

Sec. 2. RCW 77.55.231 and 2012 1st sp.s. c 1 s 106 are each amended to read as follows:

(1)(a) Conditions imposed upon a permit must be reasonably related to the project. The permit conditions must ensure that the project provides proper protection for fish life, but the department may not impose conditions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

(b) In the event that any person desires to replace residential marine shoreline stabilization or armoring, a person must use the least impacting technically feasible bank protection alternative for the protection of fish life. Unless the department provides an exemption depending on the scale and nature of the project, a person that desires to replace residential marine shoreline stabilization or armoring must conduct a site assessment to consider the least impactful alternatives. A person should propose a hard armor technique only after considering site characteristics such as the threat to major improvements, wave energy, and other factors in an analysis of alternatives. The common

alternatives identified in (b)(i) through (vii) of this subsection are in order from most preferred to least preferred:

(i) Remove the structure and restore the beach;

(ii) Remove the structure and install native vegetation;

(iii) Remove the structure and control upland drainage;

(iv) Remove the structure and replace it with a soft structure constructed of natural materials, including bioengineering;

(v) Remove the hard structure and construct upland retaining walls;

(vi) Remove the hard structure and replace it with a hard structure located landward of the existing structure, preferably at or above the ordinary high water line; or

(vii) Remove the hard structure and replace it with hard shoreline structure in the same footprint as the existing structure.

(c) For the purposes of this subsection, "feasible" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(2) The permit must contain provisions allowing for minor modifications to the plans and specifications without requiring reissuance of the permit.

(3) The permit must contain provisions that allow for minor modifications to the required work timing without requiring the reissuance of the permit. "Minor modifications to the required work timing" means a minor deviation from the timing window set forth in the permit when there are no spawning or incubating fish present within the vicinity of the project.

Passed by the Senate April 21, 2021.

Passed by the House March 28, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 280

[Second Substitute Senate Bill 5313]

HEALTH INSURANCE—GENDER AFFIRMING TREATMENT

AN ACT Relating to health insurance discrimination; amending RCW 49.60.178, 41.05.017, and 48.43.0128; adding a new section to chapter 74.09 RCW; and creating a new section.

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

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

(1) It is an unfair practice for any person whether acting for himself, herself, or another in connection with an insurance transaction or transaction with a health maintenance organization to cancel or fail or refuse to issue or renew insurance or a health maintenance agreement to any person because of sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with disabilities: PROVIDED, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, ((~~48.46.370~~)) 48.46.370, or 48.43.0128 does not constitute an unfair practice for the purposes of this section. For the purposes of this section, "insurance transaction" is defined in RCW 48.01.060, health maintenance

agreement is defined in RCW 48.46.020, and "health maintenance organization" is defined in RCW 48.46.020.

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

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

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

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

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

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

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

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

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

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

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

(b) A health carrier may not apply categorical cosmetic or blanket exclusions to gender affirming treatment. When prescribed as medically necessary gender affirming treatment, a health carrier may not exclude as cosmetic services facial feminization surgeries and other facial gender affirming treatment, such as tracheal shaves, hair electrolysis, and other care such as

mastectomies, breast reductions, breast implants, or any combination of gender affirming procedures, including revisions to prior treatment.

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

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

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

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

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

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

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

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

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

(2) Beginning January 1, 2022:

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

(b) Facial feminization surgeries and facial gender affirming treatment, such as tracheal shaves, hair electrolysis, and other care such as mastectomies, breast reductions, breast implants, or any combination of gender affirming procedures,

including revisions to prior treatment, when prescribed as gender affirming treatment, may not be excluded as cosmetic.

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

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

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

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

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

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

Passed by the Senate April 19, 2021.

Passed by the House March 24, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 281

[Second Substitute Senate Bill 5315]

CAPTIVE INSURANCE

AN ACT Relating to captive insurance; amending RCW 48.14.020, 48.14.095, 48.15.160, 82.04.320, and 48.14.090; adding a new chapter to Title 48 RCW; creating a new section; prescribing penalties; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that creating a framework for Washington private entities and public institutions of higher education to manage their risks through captive insurers will facilitate the growth and safety of those entities and protect the public interest. The legislature further finds that captive insurance promotes prudent risk management and provides access to

insurance and reinsurance markets that may not be available to these Washington entities otherwise. The legislature believes that encouraging the use of captive insurance will support those who rely upon the strength and stability of employers in this state.

The legislature does not intend by this act to make Washington a captive domicile state. Rather, the legislature is establishing a framework for registration by captive insurers that insure Washington-based entities and are licensed by the jurisdictions in which they are domiciled.

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

(1) "Affiliate" means an entity directly or indirectly controlling, controlled by, or under common control with another entity, such as a parent or a subsidiary corporation. "Affiliate" also means any person that holds an insured interest because that person has or had an employment or sales contract with an insured person.

(2) "Captive owner" means one of the following:

(a) An entity that is organized under Title 23B, 24, or 25 RCW, or analogous provisions of the law of another state or territory; or

(b) A public institution of higher education.

(3) "Casualty insurance" has the same meaning as "general casualty insurance" as defined in RCW 48.11.070.

(4) "Control" means possession of the power to direct the management and policies of an entity through ownership of voting securities, by contract, or otherwise.

(5) "Eligible captive insurer" means an insurance company with the following characteristics:

(a) It is wholly or partially owned by a captive owner;

(b) It insures risks of the captive owner, the captive owner's other affiliates, or both;

(c) One or more of its insureds have their principal place of business in Washington;

(d) It has assets that exceed its liabilities by at least \$1,000,000 and has the ability to pay its debts as they come due, both as verified by audited financial statements prepared by an independent certified accountant; and

(e) It is licensed as a captive insurer by the jurisdiction in which it is domiciled.

(6) "Property insurance" has the same meaning as in RCW 48.11.040.

(7) "Public institution of higher education" means an institution of higher education as defined in RCW 28B.10.016.

NEW SECTION. Sec. 3. (1) Within 120 days after the effective date of this section or, if later, within 120 days after first issuing a policy that covers Washington risks, an entity acting as an eligible captive insurer must register with the commissioner.

(2) The commissioner will approve an eligible captive insurer's registration if the commissioner determines that the eligible captive insurer has sufficiently demonstrated:

(a)(i) That its assets exceed its liabilities by at least \$1,000,000 and it has the ability to pay its debts as they come due, both as verified by audited financial statements prepared by an independent certified accountant; and

(ii) That it is in good standing in its jurisdiction of domicile; and

(b) The eligible captive insurer has paid a fee of \$2,500.

(3) The commissioner may request additional documentation and information if needed to show that these requirements have been met.

(4) The commissioner may deny registration for any eligible captive insurer that fails to meet the requirements in subsections (2) and (3) of this section.

(5) A registered captive insurer may renew its certificate of registration for successive periods of 12 months each by, for each period, meeting the requirements of subsections (2)(a) and (3) of this section and paying a renewal fee in an amount set by the commissioner not to exceed \$2,500.

(6) A registered eligible captive insurer may provide only property and casualty insurance and may provide such insurance to a captive owner, to the captive owner's other affiliates, or both. A registered eligible captive insurer may assume risks from other insurers as a reinsurer without regard to the limitations in the preceding sentence.

(7) A registered eligible captive insurer may insure risks of its affiliates and obtain or provide reinsurance for ceded or assumed risks insured in this state or elsewhere.

NEW SECTION. Sec. 4. (1) On or before the first day of March of each year, a registered eligible captive insurer must remit to the state treasurer through the commissioner a tax in the amount of two percent of the premiums, exclusive of returned premiums and sums collected to cover federal and state taxes and examination fees, for insurance directly procured by and provided to its parent or another affiliate for Washington risks during the preceding calendar year. The tax when collected must be credited to the general fund.

(2) For the purposes of this section, "Washington risks" means the share of risk covered by the premiums that is allocable to this state, based on where the underlying risks are located or where the losses or injuries giving rise to covered claims arise. A registered eligible captive insurer may use any reasonable method of determining such an allocation, including actuarial analysis or use of a proxy such as sales, property value, or payroll. Whether paid directly or by reimbursement, neither the timing nor the nature of a captive insurer's payment may be deemed to reflect, create, or constitute Washington risks.

(3) The registered eligible captive insurer must share its methodology and relevant analysis in determining its allocation with the commissioner.

(4) A registered eligible captive insurer is not liable for premium tax on moneys received as a reinsurer or on insurance placed through a surplus lines broker or other intermediary that collects and remits premium tax.

(5) If a registered eligible captive insurer fails to remit the tax provided by this section by the last day of the month in which the tax becomes due, the registered eligible captive insurer must pay the tax and the penalties and interest provided in RCW 48.14.060. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction. Any fine collected by the commissioner must be paid to the state treasurer and credited to the general fund.

(6) Taxes on premiums are due under this section from an eligible captive insurer for any period after January 1, 2011, if not previously remitted to the commissioner, and further provided that all such taxes must be limited to an eligible captive insurer's Washington risks. Taxes due under this subsection for periods before July 1, 2021, are not subject to the penalties or interest provided in RCW 48.14.060. For periods beginning July 1, 2021, a registered eligible captive insurer is subject to the sanctions in subsection (5) of this section.

(7) Taxes on premiums may not be imposed on or collected from an eligible captive insurer affiliated with a public institution of higher education.

NEW SECTION. Sec. 5. (1) The commissioner is authorized to make use of any of the powers established under Title 48 RCW to enforce the laws of this state. This includes, but is not limited to, the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, impose penalties, and seek injunctive relief. With regard to any investigation, administrative proceedings, or litigation, the commissioner can rely on the procedural law and regulations of the state. An eligible captive insurer that violates any provision of this chapter after its effective date will be subject to the fines and penalties applicable to authorized insurers generally, including revocation of its registration, suspension of registration, and refusal to renew registration.

(2) An eligible captive insurer that fails to register under this act is acting as an unlawful, unauthorized insurer and is subject to the fines and penalties applicable to unlawful, unauthorized insurers generally.

NEW SECTION. Sec. 6. The commissioner may adopt rules as necessary to implement this act.

Sec. 7. RCW 48.14.020 and 2016 c 133 s 1 are each amended to read as follows:

(1) Subject to other provisions of this chapter, each authorized insurer except title insurers and registered eligible captive insurers as defined in section 2 of this act shall on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax on premiums. Except as provided in subsection (3) of this section, such tax shall be in the amount of two percent of all premiums, excluding amounts returned to or the amount of reductions in premiums allowed to holders of industrial life policies for payment of premiums directly to an office of the insurer, collected or received by the insurer under RCW 48.14.090 during the preceding calendar year other than ocean marine and foreign trade insurances, after deducting premiums paid to policyholders as returned premiums, upon risks or property resident, situated, or to be performed in this state. For tax purposes, the reporting of premiums shall be on a written basis or on a paid-for basis consistent with the basis required by the annual statement. For the purposes of this section the consideration received by an insurer for the granting of an annuity shall not be deemed to be a premium.

(2)(a) The taxes imposed in this section do not apply to amounts received by any life and disability insurer for health care services included within the definition of practice of dentistry under RCW 18.32.020 except amounts received for pediatric oral services that qualify as coverage for the minimum essential coverage requirement under P.L. 111-148 (2010), as amended, and for stand-alone family dental plans as defined in RCW 43.71.080(4)(a), only when

offered in the individual market, as defined in RCW 48.43.005(~~((27))~~), or to a small group, as defined in RCW 48.43.005(~~((33))~~).

(b) Beginning January 1, 2014, moneys collected for premiums written on qualified health benefit plans and qualified dental plans offered through the health benefit exchange under chapter 43.71 RCW must be deposited in the health benefit exchange account under RCW 43.71.060.

(3) In the case of insurers which require the payment by their policyholders at the inception of their policies of the entire premium thereon in the form of premiums or premium deposits which are the same in amount, based on the character of the risks, regardless of the length of term for which such policies are written, such tax shall be in the amount of two percent of the gross amount of such premiums and premium deposits upon policies on risks resident, located, or to be performed in this state, in force as of the thirty-first day of December next preceding, less the unused or unabsorbed portion of such premiums and premium deposits computed at the average rate thereof actually paid or credited to policyholders or applied in part payment of any renewal premiums or premium deposits on one-year policies expiring during such year.

(4) Each authorized insurer shall with respect to all ocean marine and foreign trade insurance contracts written within this state during the preceding calendar year, on or before the first day of March of each year pay to the state treasurer through the commissioner's office a tax of ninety-five one-hundredths of one percent on its gross underwriting profit. Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance) on such ocean marine and foreign trade insurance contracts the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include, for computation of the tax prescribed by this subsection, the amounts refunded, or paid as participation dividends, by such insurers to the holders of such contracts.

(5) The state does hereby preempt the field of imposing excise or privilege taxes upon insurers or their appointed insurance producers, other than title insurers, and no county, city, town or other municipal subdivision shall have the right to impose any such taxes upon such insurers or these insurance producers.

(6) If an authorized insurer collects or receives any such premiums on account of policies in force in this state which were originally issued by another insurer and which other insurer is not authorized to transact insurance in this state on its own account, such collecting insurer shall be liable for and shall pay the tax on such premiums.

Sec. 8. RCW 48.14.095 and 2008 c 217 s 8 are each amended to read as follows:

(1) This section applies to any insurer or taxpayer, as defined in RCW 48.14.0201, violating or failing to comply with RCW 48.05.030(1), 48.17.060, 48.36A.290(1), 48.44.015(1), or 48.46.027(1).

(2) Except as provided in subsections (7) and (8) of this section, RCW 48.14.020, 48.14.0201, and 48.14.060 apply to insurers or taxpayers identified in subsection (1) of this section.

(3) If an insurance contract, health care services contract, or health maintenance agreement covers risks or exposures, or enrolled participants only

partially in this state, the tax payable is computed on the portion of the premium that is properly allocated to a risk or exposure located in this state, or enrolled participants residing in this state.

(4) In determining the amount of taxable premiums under subsection (3) of this section, all premiums, other than premiums properly allocated or apportioned and reported as taxable premiums of another state, that are written, procured, or received in this state, or that are for a policy or contract negotiated in this state, are considered to be written on risks or property resident, situated, or to be performed in this state, or for health care services to be provided to enrolled participants residing in this state.

(5) Insurance on risks or property resident, situated, or to be performed in this state, or health coverage for the provision of health care services for residents of this state, is considered to be insurance procured, continued, renewed, or performed in this state, regardless of the location from which the application is made, the negotiations are conducted, or the premiums are remitted.

(6) Premiums on risks or exposures that are properly allocated to federal waters or international waters or under the jurisdiction of a foreign government are not taxable by this state.

(7) This section does not apply to premiums on insurance procured by a licensed surplus line broker under chapter 48.15 RCW.

(8) This section does not apply to premiums on insurance that is issued by a registered eligible captive insurer under chapter 48.--- RCW (the new chapter created in section 12 of this act).

Sec. 9. RCW 48.15.160 and 2008 c 217 s 11 are each amended to read as follows:

(1) The provisions of this chapter controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance, to insurance issued by a registered eligible captive insurer under chapter 48.--- RCW (the new chapter created in section 12 of this act), or to the following insurances when so placed by licensed insurance producers of this state:

(a) Ocean marine and foreign trade insurances.

(b) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.

(c) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.

(d) Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in schedule interstate flight, or cargo of such aircraft, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

(2) Insurance producers so placing any such insurance with an unauthorized insurer shall keep a full and true record of each such coverage in detail as required of surplus line insurance under this chapter and shall meet the requirements imposed upon a surplus line broker pursuant to RCW 48.15.090 and any regulations adopted thereunder. The record shall be preserved for not less than five years from the effective date of the insurance and shall be kept available in this state and open to the examination of the commissioner. The insurance producer shall furnish to the commissioner at the commissioner's

request and on forms as designated and furnished by him or her a report of all such coverages so placed in a designated calendar year.

Sec. 10. RCW 82.04.320 and 1961 c 15 s 82.04.320 are each amended to read as follows:

~~((This))~~ (1) Except as otherwise provided in this section, this chapter ~~((shall))~~ does not apply to any person in respect to insurance business upon which a tax based on gross premiums is paid to the state ~~((: PROVIDED, That the))~~.

(2) The provisions of this section ~~((shall))~~ do not exempt any person engaging in the business of representing any insurance company, whether as general or local agent, or acting as broker for such companies ~~((: PROVIDED FURTHER, That the))~~.

(3) The provisions of this section ~~((shall))~~ do not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor.

(4) For purposes of this section, for periods preceding the effective date of this section, eligible captive insurers as defined in section 2 of this act are deemed, in respect to their insurance business, to have paid a tax on gross premiums to the state.

(5) Eligible captive insurers affiliated with a public institution of higher education that are exempt from paying a premium tax under section 4 of this act are exempt from the tax imposed by this chapter in respect to their insurance business. For purposes of this subsection (5), the definitions in section 2 of this act apply.

Sec. 11. RCW 48.14.090 and 2009 c 161 s 4 are each amended to read as follows:

In determining the amount of direct premium taxable in this state other than for policies issued by an eligible captive insurer as defined in section 2 of this act, all such premiums written, procured, or received in this state shall be deemed written upon risks or property resident, situated, or to be performed in this state except such premiums as are properly allocated or apportioned and reported as taxable premiums of any other state or states. For tax purposes, the reporting of premiums shall be on a written basis or on a paid-for basis consistent with the basis required by the annual statement.

NEW SECTION. Sec. 12. Sections 1 through 6 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 13. 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. 14. Sections 8 through 11 of this act apply both retroactively and prospectively.

NEW SECTION. Sec. 15. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 9, 2021.

Passed by the House April 9, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 282

[Substitute Senate Bill 5318]

COMMERCIAL FERTILIZER—FEES

AN ACT Relating to fertilizer fees; amending RCW 15.54.275, 15.54.325, 15.54.350, and 15.54.362; creating a new section; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 15.54.275 and 2013 c 144 s 8 are each amended to read as follows:

(1) No person may distribute a bulk fertilizer in this state until a license to distribute has been obtained by that person. An annual license is required for each out-of-state or in-state location that distributes bulk fertilizer in Washington state. An application for each location must be filed on forms provided by the business licensing system established under chapter 19.02 RCW and must be accompanied by an annual fee of ~~((twenty-five))~~ fifty dollars per location. The license expires on the business license expiration date.

(2) An application for license must include the following:

(a) The name and address of licensee.

(b) Any other information required by the department by rule.

(3) The name and address shown on the license must be shown on all labels, pertinent invoices, and storage facilities for fertilizer distributed by the licensee in this state.

(4) If an application for license renewal provided for in this section is not filed prior to the business license expiration date, a delinquency fee of ~~((twenty-five))~~ fifty dollars must be assessed and added to the original fee and must be paid by the applicant before the renewal license is issued. The assessment of this delinquency fee does not prevent the department from taking any other action as provided for in this chapter. ~~The penalty does not apply if the applicant furnishes an affidavit that he or she has not distributed this commercial fertilizer subsequent to the expiration of his or her prior license.))~~

Sec. 2. RCW 15.54.325 and 2020 c 20 s 1002 are each amended to read as follows:

(1) No person may distribute in this state a commercial fertilizer until it has been registered with the department by the producer, importer, or packager of that product.

(2) An application for registration must be made on a form furnished by the department and must include the following:

(a) The product name;

(b) The brand and grade;

(c) The guaranteed analysis;

(d) Name, address, and phone number of the registrant;

(e) A label for each product being registered;

(f) Identification of those products that are (i) waste-derived fertilizers, (ii) micronutrient fertilizers, or (iii) fertilizer materials containing phosphate;

(g) The concentration of each metal, for which standards are established under RCW 15.54.800, in each product being registered, unless the product is (i) anhydrous ammonia or a solution derived solely from dissolving anhydrous ammonia in water, (ii) a customer-formula fertilizer containing only registered commercial fertilizers, or (iii) a packaged commercial fertilizer whose plant nutrient content is present in the form of a single chemical compound which is registered in compliance with this chapter and the product is not blended with any other material. The provisions of (g)(i) of this subsection do not apply if the anhydrous ammonia is derived in whole or in part from waste such that the fertilizer is a "waste-derived fertilizer" as defined in RCW 15.54.270. Verification of a registration relied on by an applicant under (g)(iii) of this subsection must be submitted with the application;

(h) If a waste-derived fertilizer or micronutrient fertilizer, information to ensure the product complies with chapter 70A.300 RCW and the resource conservation and recovery act, 42 U.S.C. Sec. 6901 et seq.; and

(i) Any other information required by the department by rule.

(3) All companies planning to mix customer-formula fertilizers shall include the statement "customer-formula grade mixes" under the column headed "product name" on the product registration application form. All customer-formula fertilizers sold under one brand name shall be considered one product.

(4) Registrations are issued by the department for a two-year period beginning on July 1st of a given year and ending twenty-four months later on July 1st, except that registrations issued to a registrant who applies to register an additional product during the last twelve months of the registrant's period expire on the next July 1st.

(5) An application for a new registration must be accompanied by a fee of one hundred fifty dollars for each product.

(6) Application for renewal of registration is due July 1st of each registration period and must be accompanied by a renewal fee of one hundred twenty dollars for each product. If an application for renewal is not received by the department by the due date, a late fee of ~~((ten))~~ fifty dollars per product is added to the original fee and must be paid by the applicant before the renewal registration may be issued. ~~((A late fee does not apply if the applicant furnishes an affidavit that he or she has not distributed this commercial fertilizer subsequent to the expiration of the prior registration.))~~ Payment of a late fee does not prevent the department from taking any action authorized by this chapter for the violation.

Sec. 3. RCW 15.54.350 and 1993 c 183 s 6 are each amended to read as follows:

(1) There shall be paid to the department for all commercial fertilizers distributed in this state to nonregistrants or nonlicensees an inspection fee of ~~((fifteen))~~ twenty cents per ton of lime and ~~((thirty))~~ thirty-five cents per ton of all other commercial fertilizer distributed during the year beginning July 1st and ending June 30th.

(2) Distribution of commercial fertilizers for shipment to points outside this state may be excluded.

(3) When more than one distributor is involved in the distribution of a commercial fertilizer, the last registrant or licensee who distributes to a

nonregistrant or nonlicensee is responsible for paying the inspection fee, unless the payment of fees has been made by a prior distributor of the fertilizer.

Sec. 4. RCW 15.54.362 and 2008 c 292 s 3 are each amended to read as follows:

(1) Every registrant or licensee who distributes commercial fertilizer in this state must file a semiannual report on forms provided by the department stating the number of net tons of each commercial fertilizer distributed in this state.

(a) For the period January 1st through June 30th of each year, the report is due on July 31st of that year; and

(b) For the period July 1st through December 31st of each year, the report is due on January 31st of the following year.

(2) Upon permission of the department, a person distributing in the state less than one hundred tons for each six-month period during any annual reporting period of July 1st through June 30th may submit an annual report on a form provided by the department that is due on the July 31st following the period. The department may accept sales records or other records accurately reflecting the tonnage sold and verifying such reports.

~~((2))~~ (3) Each person responsible for the payment of inspection fees for commercial fertilizer distributed in this state must include the inspection fees with each semiannual or annual report. If in an annual reporting period a registrant or licensee distributes less than ~~((eighty-three))~~ one hundred forty-three tons of commercial fertilizer or less than ~~((one hundred sixty-seven))~~ two hundred fifty tons of commercial lime or equivalent combination of the two, the registrant or licensee must pay the minimum inspection fee of ~~((twenty-five))~~ fifty dollars.

~~((3))~~ (4) The department may, upon request, require registrants or licensees to furnish information setting forth the net tons of commercial fertilizer distributed to each location in this state.

~~((4))~~ (5) If the semiannual or annual report indicates that zero tons of commercial fertilizer were distributed during the reporting period, the person responsible for completing the report must pay a filing fee of twelve dollars and fifty cents for a semiannual report or twenty-five dollars for an annual report.

~~(6)~~(a) If a complete report is not received by the due date, the person responsible for filing the report must pay a late fee of ~~((twenty-five))~~ fifty dollars.

(b) If the appropriate inspection fees are not received by the due date, the person responsible for paying the inspection fee must pay a late fee equal to ten percent of the inspection fee owed or ~~((twenty-five))~~ fifty dollars, whichever is greater.

~~((c) Payment of a late fee does not prevent the department from taking any other action authorized by this chapter for the violation.~~

~~((5))~~ (7) It is a misdemeanor for any person to divulge any information provided under this section that would reveal the business operation of the person making the report. However, nothing contained in this subsection may be construed to prevent or make unlawful the use of information concerning the business operations of a person in any action, suit, or proceeding instituted under the authority of this chapter, including any civil action for the collection of unpaid inspection fees, which action is authorized and which shall be as an action at law in the name of the director of the department.

(8) Payment of late fees or filing fees provided for under this section does not prevent the department from taking any other action authorized by this chapter for the violation.

NEW SECTION. Sec. 5. All new or renewal applications for registration under this act received on or after the effective date of this section are subject to the provisions of this act, including all fees required by this act.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 1, 2021.

Passed by the Senate April 22, 2021.

Passed by the House April 21, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 283

[Engrossed Substitute Senate Bill 5321]

COLLEGE BOUND SCHOLARSHIP—ELIGIBILITY

AN ACT Relating to the college bound scholarship; amending RCW 28B.118.040; reenacting and amending RCW 28B.118.010 and 28B.118.090; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature enacted the college bound scholarship program in 2007 to encourage all Washington students to dream big by creating a guaranteed four-year tuition scholarship program for students from low-income families. The legislature finds the program has been successful in achieving this goal. A report by the Washington state institute for public policy found that the scholarship increases high school graduation rates, probability of on-time college enrollment, college persistence, and college graduation rates. However, more than one quarter of eligible students are unable to access the scholarship by failing to sign the pledge required by the program. The legislature finds that the pledge has become an unintended barrier to entry, a problem made more acute as students are receiving their education remotely during the COVID-19 pandemic and have less access to school teachers, counselors, and peers. Therefore, the legislature intends with this act to remove the pledge as an eligibility requirement while retaining the requirement that students maintain a "C" average and avoid serious interactions with the criminal justice system for four years. In order to ensure that the legislature will fulfill its promise to provide a scholarship upon graduation, the legislature intends by this act to create a statutory contractual right for students who fulfill scholarship requirements that vests when the student becomes first eligible for the scholarship.

Sec. 2. RCW 28B.118.010 and 2019 c 406 s 44 and 2019 c 298 s 1 are each reenacted and amended to read as follows:

The office of student financial assistance shall design the Washington college bound scholarship program in accordance with this section and in alignment with the Washington college grant program in chapter 28B.92 RCW

unless otherwise provided in this section. The right of an eligible student to receive a college bound scholarship vest upon enrollment in the program that is earned by meeting the requirements of this section as it exists at the time of the student's enrollment under subsection (2) of this section.

(1) "Eligible students" are those students who:

(a) Qualify for free or reduced-price lunches.

(i) If a student qualifies in the seventh or eighth grade, the student remains eligible even if the student does not receive free or reduced-price lunches thereafter.

(ii) Beginning in the 2019-20 academic year, if a student qualifies for free or reduced-price lunches in the ninth grade and was previously ineligible during the seventh or eighth grade while he or she was a student in Washington, the student is eligible for the college bound scholarship program;

(b) Are dependent pursuant to chapter 13.34 RCW and:

(i) In grade seven through twelve; or

(ii) Are between the ages of eighteen and twenty-one and have not graduated from high school; or

(c) Were dependent pursuant to chapter 13.34 RCW and were adopted between the ages of fourteen and eighteen with a negotiated adoption agreement that includes continued eligibility for the Washington state college bound scholarship program pursuant to RCW 74.13A.025.

~~(2) ((Eligible students and the students' parents or guardians shall be notified of the student's eligibility for the Washington college bound scholarship program. Students and the students' parents or guardians shall also be notified of the requirements for award of the scholarship.~~

~~(3)(a) To be eligible for a Washington college bound scholarship, a student eligible under subsection (1)(a)(i) of this section must sign a pledge during seventh or eighth grade or a student eligible under subsection (1)(a)(ii) of this section must sign a pledge during ninth grade. The pledge must include a commitment to graduate from high school with at least a C average and with no felony convictions. The pledge must be witnessed by a parent or guardian and forwarded to the office of student financial assistance by mail or electronically, as indicated on the pledge form.~~

~~(b)(i) Beginning in the 2018-19 academic year, the office of student financial assistance shall make multiple attempts to secure the signature of the student's parent or guardian for the purpose of witnessing the pledge.~~

~~(ii) If the signature of the student's parent or guardian is not obtained, the office of student financial assistance may partner with the school counselor or administrator to secure the parent's or guardian's signature to witness the pledge. The school counselor or administrator shall make multiple attempts via all phone numbers, email addresses, and mailing addresses on record to secure the parent's or guardian's signature. All attempts to contact the parent or guardian must be documented and maintained in the student's official file.~~

~~(iii) If a parent's or guardian's signature is still not obtained, the school counselor or administrator shall indicate to the office of student financial assistance the nature of the unsuccessful efforts to contact the student's parent or guardian and the reasons the signature is not available. Then the school counselor or administrator may witness the pledge unless the parent or guardian~~

~~has indicated that he or she does not wish for the student to participate in the program.~~

~~(e) A) (a) Every eligible student ((eligible under subsection (1)(b) of this section)) shall be automatically enrolled by the office of student financial assistance, with no action necessary by the student ((or the), student's family, ((and the enrollment form must be forwarded by the department of social and health services to the office of student financial assistance by mail or electronically, as indicated on the form)) or student's guardians.~~

(b) Eligible students and the students' parents or guardians shall be notified of the student's enrollment in the Washington college bound scholarship program and the requirements for award of the scholarship by the office of student financial assistance. To the maximum extent practicable, an eligible student must acknowledge enrollment in the college bound scholarship program and receipt of the requirements for award of the scholarship.

(c) The office of the superintendent of public instruction and the department of children, youth, and families must provide the office of student financial assistance with a list of eligible students when requested. The office of student financial assistance must determine the most effective methods, including timing and frequency, to notify eligible students of enrollment in the Washington college bound scholarship program. The office of student financial assistance must take reasonable steps to ensure that eligible students acknowledge enrollment in the college bound scholarship program and receipt of the requirements for award of the scholarship. The office of student financial assistance shall also make available to every school district information, brochures, and posters to increase awareness and to enable school districts to notify eligible students directly or through school teachers, counselors, or school activities.

~~((4)(a) Scholarships shall be awarded to)) (3) Except as provided in subsection (4) of this section, an eligible student((s) graduating from public high schools, approved private high schools under chapter 28A.195 RCW, or who received home-based instruction under chapter 28A.200 RCW.~~

~~(b)(i) To receive the Washington college bound scholarship, a student)) must ((graduate));~~

(a) Graduate with at least a "C" average from a public high school ((or) under RCW 28A.150.010, an approved private high school under chapter 28A.195 RCW in Washington, or have received home-based instruction under chapter 28A.200 RCW((- must have));

(b) Have no felony convictions((- and must be));

(c) Be a resident student as defined in RCW 28B.15.012(2) (a) through (e)((- A)); and

(d) Have a family income that does not exceed 65 percent of the state median family income at the time of high school graduation.

(4)(a) An eligible student who ((is eligible to receive the Washington college bound scholarship because the student)) is a resident student under RCW 28B.15.012(2)(e) must also provide the institution, as defined in RCW 28B.15.012, an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses.

~~((#))~~ (b) For eligible ~~((children))~~ students as defined in subsection (1)(b) and (c) of this section, ~~((to receive the Washington college bound scholarship,))~~ a student ~~((must have received))~~ may also meet the requirement in subsection (3)(a) of this section by receiving a high school equivalency certificate as provided in RCW 28B.50.536 ~~((or have graduated with at least a "C" average from a public high school or an approved private high school under chapter 28A.195 RCW in Washington or have received home-based instruction under chapter 28A.200 RCW, must have no felony convictions, and must be a resident student as defined in RCW 28B.15.012(2) (a) through (e))).~~

(c) For a student who does not meet the "C" average requirement, and who completes fewer than two quarters in the running start program, under chapter 28A.600 RCW, the student's first quarter of running start course grades must be excluded from the student's overall grade point average for purposes of determining ~~((their eligibility to receive the scholarship))~~ if the requirement in subsection (3)(a) of this section is met.

~~(5)~~ ~~((A student's family income will be assessed upon graduation before awarding the scholarship. If at graduation from high school the student's family income does not exceed sixty five percent of the state median family income, scholarship award amounts shall be as provided in this section.~~

~~((6))~~ (a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, the value of the award shall be (i) the difference between the student's tuition and required fees, less the value of any state-funded grant, scholarship, or waiver assistance the student receives; (ii) plus five hundred dollars for books and materials.

(b) For students attending private four-year institutions of higher education in Washington, the award amount shall be the representative average of awards granted to students in public research universities in Washington or the representative average of awards granted to students in public research universities in Washington in the 2014-15 academic year, whichever is greater.

(c) For students attending private vocational schools in Washington, the award amount shall be the representative average of awards granted to students in public community and technical colleges in Washington or the representative average of awards granted to students in public community and technical colleges in Washington in the 2014-15 academic year, whichever is greater.

~~((7 Recipients))~~ (6) Eligible students must enroll no later than the fall term, as defined by the institution of higher education, one academic year following high school graduation. Eligible students may receive no more than four full-time years' worth of scholarship awards within a five-year period.

~~((8))~~ (7) Institutions of higher education shall award the student all need-based and merit-based financial aid for which the student would otherwise qualify. The Washington college bound scholarship is intended to replace unmet need, loans, and, at the student's option, work-study award before any other grants or scholarships are reduced.

~~((9))~~ (8) The first scholarships shall be awarded to students graduating in 2012.

~~((10))~~ (9) The eligible student has a property right in the award, but the state of Washington retains legal ownership of tuition units awarded as scholarships under this chapter until the tuition units are redeemed. These tuition

units shall remain separately held from any tuition units owned under chapter 28B.95 RCW by a Washington college bound scholarship recipient.

~~((+1))~~ (10) The scholarship award must be used within five years of receipt. Any unused scholarship tuition units revert to the Washington college bound scholarship account.

~~((+2))~~ (11) Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the scholarship tuition units shall revert to the Washington college bound scholarship account.

Sec. 3. RCW 28B.118.040 and 2019 c 298 s 2 are each amended to read as follows:

The office of student financial assistance shall:

(1) With the assistance of the office of the superintendent of public instruction, implement and administer the Washington college bound scholarship program;

(2) Develop ~~((and distribute, to all schools with students enrolled in grades seven through nine, a pledge form that can be completed and returned electronically or by mail by the student or the school to the office of student financial assistance))~~ effective methods to notify eligible students of their enrollment in the Washington college bound scholarship program and the requirements of RCW 28B.118.010;

(3) Develop and implement a ~~((student application, selection, and notification))~~ process for scholarships, which includes working with other state agencies, law enforcement, or the court system to verify that eligible students do not have felony convictions;

(4) Annually in March, with the assistance of the office of the superintendent of public instruction, distribute to tenth grade ~~((college bound scholarship))~~ eligible students and their families: (a) Notification that, to qualify for the scholarship, a student's family income may not exceed sixty-five percent of the state median family income at graduation from high school; (b) the current year's value for sixty-five percent of the state median family income; and (c) a statement that a student should consult their school counselor if their family makes, or is projected to make, more than this value before the student graduates;

(5) Develop comprehensive social media outreach with grade-level specific information designed to keep students on track to graduate and leverage current tools such as the high school and beyond plan required by the state board of education and the ready set grad website maintained by the student achievement council;

(6) Track scholarship recipients to ensure continued eligibility and determine student compliance for awarding of scholarships;

(7) Within existing resources, collaborate with college access providers and K-12, postsecondary, and youth-serving organizations to map and coordinate mentoring and advising resources across the state;

(8) Subject to appropriation, deposit funds into the state educational trust fund;

(9) Purchase tuition units under the advanced college tuition payment program in chapter 28B.95 RCW to be owned and held in trust by the office of student financial assistance, for the purpose of scholarship awards as provided for in this section; and

(10) Distribute scholarship funds, in the form of tuition units purchased under the advanced college tuition payment program in chapter 28B.95 RCW or through direct payments from the state educational trust fund, to institutions of higher education on behalf of scholarship recipients identified by the office, as long as recipients maintain satisfactory academic progress.

Sec. 4. RCW 28B.118.090 and 2019 c 406 s 45 and 2019 c 298 s 3 are each reenacted and amended to read as follows:

(1) Beginning January 1, 2015, and at a minimum every year thereafter, the student achievement council and all institutions of higher education eligible to participate in the college bound scholarship program shall ensure data needed to analyze and evaluate the effectiveness of the college bound scholarship program is promptly transmitted to the education data center created in RCW 43.41.400 so that it is available and easily accessible. The data to be reported should include but not be limited to:

(a) The number of enrolled students (~~(who sign up)~~) for the college bound scholarship program in seventh, eighth, or ninth grade;

(b) The number of college bound scholarship students who graduate from high school;

(c) The number of college bound scholarship students who enroll in postsecondary education;

(d) Persistence and completion rates of college bound scholarship recipients disaggregated by institutions of higher education;

(e) College bound scholarship recipient grade point averages;

(f) The number of college bound scholarship recipients who did not remain eligible and reasons for ineligibility;

(g) College bound scholarship program costs; and

(h) Impacts to the Washington college grant program.

(2) Beginning May 12, 2015, and at a minimum every December 1st thereafter, the student achievement council shall submit student unit record data for the college bound scholarship program applicants and recipients to the education data center.

NEW SECTION. **Sec. 5.** This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections.

NEW SECTION. **Sec. 6.** The legislature intends this act to be curative, remedial, and retroactively apply to seventh grade students beginning with the 2019-20 school year.

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 Senate March 4, 2021.

Passed by the House April 22, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 284

[Engrossed Senate Bill 5330]

COMMERCIAL WHALE WATCHING LICENSES—VARIOUS PROVISIONS

AN ACT Relating to commercial whale watching licenses; amending RCW 77.65.615; and declaring an emergency.

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

Sec. 1. RCW 77.65.615 and 2019 c 291 s 2 are each amended to read as follows:

(1) A commercial whale watching business license is required for commercial whale watching (~~((operators))~~) businesses. The annual fee for a commercial whale watching business license is two hundred dollars in addition to the annual application fee of seventy-five dollars.

(2) The annual fees for a commercial whale watching business license as described in subsection (1) of this section must include fees for each motorized or sailing vessel or vessels as follows:

- (a) One to twenty-four passengers, three hundred twenty-five dollars;
- (b) Twenty-five to fifty passengers, five hundred twenty-five dollars;
- (c) Fifty-one to one hundred passengers, eight hundred twenty-five dollars;
- (d) One hundred one to one hundred fifty passengers, one thousand eight hundred twenty-five dollars; and
- (e) One hundred fifty-one passengers or greater, two thousand dollars.

~~(3) ((The annual fees for a commercial whale watching license as described in subsection (1) of this section must include fees for each kayak as follows:~~

- ~~(a) One to ten kayaks, one hundred twenty-five dollars;~~
- ~~(b) Eleven to twenty kayaks, two hundred twenty-five dollars;~~
- ~~(c) Twenty-one to thirty kayaks, four hundred twenty-five dollars; and~~
- ~~(d) Thirty-one or more kayaks, six hundred twenty-five dollars.~~

~~(4))~~ The holder of a commercial whale watching business license for motorized or sailing vessels required under subsection (2) of this section may substitute the vessel designated on the license, or designate a vessel if none has previously been designated, if the license holder:

- (a) Surrenders the previously issued license to the department;
- (b) Submits to the department an application that identifies the currently designated vessel, the vessel proposed to be designated, and any other information required by the department; and
- (c) Pays to the department a fee of thirty-five dollars and an application fee of one hundred five dollars.

~~((5))~~ (4) Unless the business license holder owns all vessels identified on the application described in subsection ~~((4))~~ (3)(b) of this section, the department may not change the vessel designation on the license more than once per calendar year.

~~((6))~~ (5) A commercial whale watching operator license is required for commercial whale watching operators. A person ~~((who is not the license holder))~~ may operate a motorized or sailing commercial whale watching vessel designated on ~~((the))~~ a commercial whale watching business license only if:

- (a) The person holds ~~((an alternate))~~ a commercial whale watching operator license issued by the director; and

(b) The person is designated as an (~~(alternate)~~) operator on the underlying commercial whale watching business license.

~~((7))~~ (6) No individual may hold more than one (~~(alternate)~~) commercial whale watching operator license. An individual who holds an (~~(alternate)~~) operator license may be designated as an (~~(alternate)~~) operator on an unlimited number of commercial whale watching business licenses.

~~((8))~~ (7) The annual fee for (~~(an alternate)~~) a commercial whale watching operator license is (~~(two)~~) one hundred dollars in addition to an annual application fee of seventy-five dollars.

~~((9))~~ (8) A person may conduct commercial whale watching via guided kayak tours only if:

(a) The person holds a kayak guide license issued by the director; and

(b) The person is designated as a kayak guide on the underlying commercial whale watching business license.

(9) No individual may hold more than one kayak guide license. An individual who holds a kayak guide license may be designated on an unlimited number of commercial whale watching business licenses.

(10) The annual fee for a kayak guide license is \$25 in addition to an annual application fee of \$25.

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

(a) "Commercial whale watching" means the act of taking, or offering to take, passengers aboard a vessel or guided kayak tour in order to view marine mammals in their natural habitat for a fee.

(b) (~~"Commercial whale watching operators" includes commercial vessels and kayak rentals that are engaged in the business of whale watching.~~

~~(c))~~ "Commercial whale watching business" means a business that engages in the activity of commercial whale watching.

(c) "Commercial whale watching business license" means a department-issued license to operate a commercial whale watching business.

(d) "Commercial whale watching license" means a commercial whale watching business license, a commercial whale watching operator license, or a kayak guide license as defined in this section.

(e) "Commercial whale watching operator" means a person who operates a motorized or sailing vessel engaged in the business of whale watching.

(f) "Commercial whale watching operator license" means a department-issued license to operate a commercial motorized or sailing vessel on behalf of a commercial whale watching business.

(g) "Commercial whale watching vessel" means any vessel that is being used as a means of transportation for individuals to engage in commercial whale watching.

(h) "Kayak guide" means a person who conducts guided kayak tours on behalf of a commercial whale watching business.

(i) "Kayak guide license" means a department-issued license to conduct commercial guided kayak tours on behalf of a commercial whale watching business.

(12) The residency and business requirements of RCW 77.65.040 (2) and (3) do not apply to Canadian individuals or corporations applying for and holding Washington commercial whale watching licenses defined in this section.

(13) The license and application fees in this section are waived for calendar years 2021 and 2022.

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 April 3, 2021.

Passed by the House April 23, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 285

[Second Substitute Senate Bill 5331]

EARLY CHILDHOOD COURT PROGRAMS

AN ACT Relating to establishing an early childhood court program for young children and their families involved in Washington's child welfare system; adding new sections to chapter 2.30 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 there is an urgent need to provide greater support to young children and their families involved in Washington state's child welfare system. Infants and toddlers comprise a substantial portion of all child abuse and neglect cases in Washington state; the rate of entry for children under age one into the care of Washington state's child welfare system is the second highest in the nation. Research demonstrates that both the trauma of neglect as well as the trauma associated with entering the child welfare system shapes young children's brain development and have lifelong impacts on young children's social, emotional, and physical well-being. Young children and families of color are particularly impacted by child welfare involvement and the factors leading up to it.

(2) The legislature further finds that early childhood court programs provide timely, evidence-based, evidence-informed, and trauma-informed interventions. Early childhood court programs reduce maltreatment recurrence, number of placements, and the time it takes to achieve permanency, while increasing equitable access to services.

(3) The legislature further finds that statewide standards are necessary to ensure the quality, accountability, and fidelity to evidence-based and evidence-informed interventions of early childhood court programs. Statewide standards will also promote equitable access to these programs, especially among children and families of color.

(4) The legislature further finds that early childhood court programs that de-emphasize termination of parental rights and focus on the safe reunification of children with parents or maintain children with family or other suitable persons promote the long-term emotional and psychological health of children and minimize the trauma and racial disproportionality experienced by children and families of color who are involved in the dependency court system.

(5) The legislature further finds that the administrative office of the courts has secured funding for the first year of the early childhood court program to support their evaluation efforts. While funding is not mandated through this act,

the legislature acknowledges that the administrative office of the courts is not able to complete its required responsibilities as provided for in this act without dedicated funding. The legislature finds and declares that in the future, the office may seek funding through public and/or private funding opportunities, and it may partner with local organizations to seek further funding, although it is not required to do so.

NEW SECTION. Sec. 2. A new section is added to chapter 2.30 RCW to read as follows:

(1)(a) A superior court may establish an early childhood court program to serve the needs of infants and toddlers who are under the age of three at the time the case enters the program and dependent pursuant to chapter 13.34 RCW.

(b) An early childhood court program is a therapeutic court as defined in this chapter that provides an intensive court process for families with a child under age three who has been found dependent pursuant to chapter 13.34 RCW. To be eligible for the early childhood court program, a parent must have a child under age three that is dependent pursuant to chapter 13.34 RCW at the time the case enters the early childhood court program. The case may remain in the early childhood court program after the child is age three or older if the child is still dependent pursuant to chapter 13.34 RCW.

(2) If a superior court creates an early childhood court program, it shall incorporate the following core components into the program:

(a) The court shall obtain a memorandum of understanding or other agreement with the department of children, youth, and families developed in collaboration with counsel for parents and children that outlines how the two entities will coordinate and collaborate to implement the core components overall.

(b) A community coordinator who may be employed by the courts, the county, or a nonprofit entity and who is a person with experience and training in diversity, equity, and inclusion measures and is dedicated to:

(i) Facilitating real-time information sharing and collaboration among cross-sector professionals participating in the early childhood court program;

(ii) Coordinating and participating in family team meetings;

(iii) Identifying community-based resources and supporting the family's connection to these resources;

(iv) Building relationships and forming new partnerships across traditional and nontraditional services and systems;

(v) Identifying training needs of early childhood court professionals and facilitating the provision of training;

(vi) Supporting the convening of community team meetings; and

(vii) Performing the tasks outlined in this subsection describing the core components of an early childhood court program unless otherwise specified.

(c) A community team established by the court and consisting of stakeholders to the court that serve as an advisory body to the court and who implement the early childhood court program. The community team shall include diverse membership to include, but not be limited to, former parent participants, foster parents, parent and child advocates, an attorney for parents, a department of children, youth, and families caseworker, and a judicial officer. The community team aims to:

(i) Foster a learning environment and encourage an interdisciplinary approach to meeting the needs of young children and families;

(ii) Identify and respond to challenges to accessing resources and needed systems reforms;

(iii) Support multidisciplinary trainings; and

(iv) Recommend local court policies and procedures to improve families receipt of equitable and timely access to resources and remedial services for the parent and child.

(d) More frequent status hearings than the review hearings required under RCW 13.34.138 established by the judicial officer, these status hearings are separate from the review hearings required under RCW 13.34.138 and are intended to provide additional support to the family.

(e) A community coordinator that serves as a liaison between the court and community-based resources to identify community-based resources, identify barriers to engagement, and collaborate with stakeholders to connect families to assessments and referrals. The community coordinator shall facilitate connecting parents with informal and formal social supports, including but not limited to peer, community, and cultural supports.

(f) Family team meetings neutrally facilitated by the community coordinator. The family team may include all parties to the case and other people or other service providers identified by the parent to be part of the support system for the parent involved. The family team engages the parents, and the attorney for the parent, in their case plan and expediently addresses family needs and access to services and support.

(g) Ensuring that parents are critical participants in the early childhood court program. Having experienced and culturally informed professionals supporting and working with families involved in the dependency court system is critical to successful reunification of families. The court shall aim to foster an environment in which all professionals involved in the early childhood court program increase their awareness of different forms of bias and the trauma and adversity that often accompany poverty, mental health, and substance use by identifying or developing training that increases such awareness.

(h) Ensuring that families receive early, consistent, and frequent visitation that is developmentally appropriate for infants and toddlers; minimizes stress and anxiety for both children and parents; and occurs in a safe, comfortable, and unthreatening setting that supports parents to nurture and care for their child.

(i) The court shall ensure that the individualized case plan for parents involved in the early childhood court program address protective factors that mitigate or eliminate safety risks to the child.

(j) The court should encourage a respectful, strength-based, compassionate approach to working with parents in the context of the early childhood court program.

(k) The court shall support the development of agreements that encourage:

(i) Stakeholders participation in any available statewide structure that supports alignment to the approach of the early childhood court program, cross-site cooperation, and consistency;

(ii) Program data is regularly and continuously reviewed to ensure equity and inform and improve practice; and

(iii) Stakeholder utilization of technical assistance, training, and evaluation to assess effectiveness and improve outcomes.

(l) Each early childhood court program must collect and review its data, including data related to race and ethnicity of program participants, to assess its effectiveness and share this data with the oversight board for children, youth, and families established under RCW 43.216.015. The oversight board for children, youth, and families established under RCW 43.216.015 shall share this data and hold or offer to assist in holding statewide meetings to support alignment to the core components and statewide consistency.

(m) The caseworker assigned to an early childhood court program must have received training and competency related to cultural antbias, and antiracism.

(n) Each early childhood court program must be responsive to community needs and adopt best practices related to family reunification and serving all families, including those who are:

- (i) Black, Indigenous, and persons of color;
- (ii) Lesbian, gay, bisexual, transgender, and queer; and
- (iii) Experiencing disabilities.

(o) An attorney for the parent must be present during every meeting of the early childhood court program.

(p) Ensuring that parents voluntarily participating in the early childhood court program receive all available and appropriate services.

NEW SECTION. Sec. 3. A new section is added to chapter 2.30 RCW to read as follows:

(1) Judicial officers who preside over early childhood court program hearings shall participate in required trainings, as follows:

(a) An initial, eight-hour training program that can include the topic areas of:

(i) The benefits to infants and toddlers of secure attachment with primary caregivers;

(ii) A trauma-informed approach;

(iii) The importance of maintaining children within their biological connections;

(iv) The importance of reunification of children with their families;

(v) Diversity, equity, and inclusion; and

(vi) The impact of trauma on child development;

(b) After the initial training, annually attend a minimum of eight hours of continuing education of pertinence to the early childhood court program.

(2) Subject to the availability of amounts appropriated for this specific purpose, the administrative office of the courts shall administer the certification of training requirements.

NEW SECTION. Sec. 4. A new section is added to chapter 2.30 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the administrative office of the courts shall perform, or contract for, an evaluation of the early childhood court program to ensure the quality, accountability, and fidelity of the programs' evidence-based treatment. Any

evaluation of the early childhood court program shall be posted on the administrative office of the courts website.

(2) The administrative office of the courts may provide, or contract for the provision of, training and technical assistance related to program services, consultation and guidance for difficult cases, and ongoing training for court teams.

NEW SECTION. **Sec. 5.** A new section is added to chapter 2.30 RCW to read as follows:

Any early childhood court program in operation as of the effective date of this section shall have until January 1, 2022, to adjust its practices to comply with sections 2 and 3 of this act.

Passed by the Senate April 20, 2021.

Passed by the House April 11, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 286

[Substitute Senate Bill 5361]

DRUG OFFENSES—RESENTENCING CRITERIA

AN ACT Relating to the resentencing of persons convicted of drug offenses; amending RCW 9.94A.519 and 9.94A.345; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 9.94A.519 and 2020 c 55 s 1 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, any offender sentenced for a violation of chapter 69.50 or 69.52 RCW that was committed prior to July 1, 2004, and who is serving a ~~((term of incarceration))~~ current sentence under custody of the department of corrections for that offense on June 11, 2020, is entitled to a resentencing hearing. The prosecuting attorney for the county in which any offender was sentenced and to whom this section applies must review the sentencing documents. If the offender is serving a term of incarceration for a violation of chapter 69.50 or 69.52 RCW that was committed prior to July 1, 2004, the prosecuting attorney shall, or the offender may, make a motion for relief from sentence to the original sentencing court.

(2) The sentencing court shall grant the motion if it finds that the offender is serving a sentence for a violation of chapter 69.50 or 69.52 RCW that was committed prior to July 1, 2004, and shall immediately set an expedited date for resentencing. At resentencing, the court shall sentence the offender as if the offender had not previously been sentenced, provided the new sentence is no greater than the initial sentence. Notwithstanding the provisions of RCW 9.94A.345, the court shall sentence the offender based on the sentencing guidelines in effect on the effective date of this section.

(3) An offender is not entitled to resentencing under this section if the offender has been convicted of a ~~((most serious offense or violent offense))~~ violent offense or sex offense involving a child.

(4) This section expires July 1, ~~((2021))~~ 2022.

Sec. 2. RCW 9.94A.345 and 2000 c 26 s 2 are each amended to read as follows:

~~((Any))~~ Except as otherwise provided in this chapter, any sentence imposed under this chapter shall be determined in accordance with the law in effect when the current offense was committed.

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 April 20, 2021.

Passed by the House April 8, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 287

[Engrossed Substitute Senate Bill 5370]

MENTAL HEALTH ADVANCE DIRECTIVES—VARIOUS PROVISIONS

AN ACT Relating to updating mental health advance directive laws; amending RCW 71.32.010, 71.32.020, 71.32.020, 71.32.030, 71.32.040, 71.32.050, 71.32.060, 71.32.070, 71.32.100, 71.32.110, 71.32.130, 71.32.170, 71.32.180, 71.32.210, 71.32.220, 71.32.250, and 71.34.755; reenacting and amending RCW 71.32.020, 71.32.140, and 71.32.260; adding a new section to chapter 71.32 RCW; providing effective dates; and providing expiration dates.

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

Sec. 1. RCW 71.32.010 and 2003 c 283 s 1 are each amended to read as follows:

(1) The legislature declares that an individual with capacity has the ability to control decisions relating to his or her own ~~((mental))~~ behavioral health care. The legislature finds that:

(a) Some ~~((mental illnesses))~~ behavioral health disorders cause individuals to fluctuate between capacity and incapacity;

(b) During periods when an individual's capacity is unclear, the individual may be unable to access needed treatment because the individual may be unable to give informed consent;

(c) Early treatment may prevent an individual from becoming so ill that involuntary treatment is necessary; and

(d) ~~((Mentally ill individuals))~~ Individuals with behavioral health disorders need some method of expressing their instructions and preferences for treatment and providing advance consent to or refusal of treatment.

(2) The legislature recognizes that a mental health advance directive can be an essential tool for an individual to express his or her choices at a time when the effects of ~~((mental illness))~~ a behavioral health disorder have not deprived him or her of the power to express his or her instructions or preferences.

~~((2))~~ (3) The legislature further finds that:

(a) A mental health advance directive must provide the individual with a full range of choices;

(b) ~~((Mentally ill individuals))~~ Individuals with behavioral health disorders have varying perspectives on whether they want to be able to revoke a directive during periods of incapacity;

(c) For a mental health advance directive to be an effective tool, individuals must be able to choose how they want their directives treated during periods of incapacity; and

(d) There must be clear standards so that treatment providers can readily discern an individual's treatment choices.

Consequently, the legislature affirms that, pursuant to other provisions of law, a validly executed mental health advance directive is to be respected by agents, guardians, and other surrogate decision makers, health care providers, professional persons, and health care facilities.

Sec. 2. RCW 71.32.020 and 2016 c 209 s 407 are each amended to read as follows:

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

(1) "Adult" means any individual who has attained the age of majority or is an emancipated minor.

(2) "Agent" has the same meaning as an attorney-in-fact or agent as provided in chapter 11.125 RCW.

(3) "Capacity" means that ~~((an adult))~~ a person has not been found to be incapacitated pursuant to this chapter or RCW 11.88.010(1)(e).

(4) "Court" means a superior court under chapter 2.08 RCW.

(5) "Health care facility" means a hospital, as defined in RCW 70.41.020; an institution, as defined in RCW 71.12.455; a state hospital, as defined in RCW 72.23.010; a nursing home, as defined in RCW 18.51.010; or a clinic that is part of a community mental health service delivery system, as defined in RCW 71.24.025.

(6) "Health care provider" means an osteopathic physician or osteopathic physician's assistant licensed under chapter 18.57 or 18.57A RCW, a physician or physician's assistant licensed under chapter 18.71 or 18.71A RCW, or an advanced registered nurse practitioner licensed under RCW 18.79.050.

(7) "Incapacitated" means ~~((an adult))~~ a person who: (a) Is unable to understand the nature, character, and anticipated results of proposed treatment or alternatives; understand the recognized serious possible risks, complications, and anticipated benefits in treatments and alternatives, including nontreatment; or communicate his or her understanding or treatment decisions; or (b) has been found to be incompetent pursuant to RCW 11.88.010(1)(e).

(8) "Informed consent" means consent that is given after ~~((the))~~ a person: (a) Is provided with a description of the nature, character, and anticipated results of proposed treatments and alternatives, and the recognized serious possible risks, complications, and anticipated benefits in the treatments and alternatives, including nontreatment, in language that the person can reasonably be expected to understand; or (b) elects not to be given the information included in (a) of this subsection.

(9) "Long-term care facility" has the same meaning as defined in RCW 43.190.020.

(10) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(11) "Mental health advance directive" or "directive" means a written document in which the principal makes a declaration of instructions or

preferences or appoints an agent to make decisions on behalf of the principal regarding the principal's mental health treatment, or both, and that is consistent with the provisions of this chapter.

(12) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(13) "Principal" means (~~(an adult)~~) a person who has executed a mental health advance directive.

(14) "Professional person" means a mental health professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(15) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(16) "Behavioral health disorder" means a mental disorder, a substance use disorder, or a co-occurring mental health and substance use disorder.

(17) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

Sec. 3. RCW 71.32.020 and 2020 c 312 s 732 are each amended to read as follows:

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

(1) "Adult" means any individual who has attained the age of majority or is an emancipated minor.

(2) "Agent" has the same meaning as an attorney-in-fact or agent as provided in chapter 11.125 RCW.

(3) "Capacity" means that (~~(an adult)~~) a person has not been found to be incapacitated pursuant to this chapter or subject to a guardianship under RCW 11.130.265.

(4) "Court" means a superior court under chapter 2.08 RCW.

(5) "Health care facility" means a hospital, as defined in RCW 70.41.020; an institution, as defined in RCW 71.12.455; a state hospital, as defined in RCW 72.23.010; a nursing home, as defined in RCW 18.51.010; or a clinic that is part of a community (~~(mental)~~) behavioral health service delivery system, as defined in RCW 71.24.025.

(6) "Health care provider" means an osteopathic physician or osteopathic physician's assistant licensed under chapter 18.57 or 18.57A RCW, a physician or physician's assistant licensed under chapter 18.71 or 18.71A RCW, or an advanced registered nurse practitioner licensed under RCW 18.79.050.

(7) "Incapacitated" means (~~(an adult)~~) a person who: (a) Is unable to understand the nature, character, and anticipated results of proposed treatment or alternatives; understand the recognized serious possible risks, complications, and anticipated benefits in treatments and alternatives, including nontreatment; or communicate his or her understanding or treatment decisions; or (b) has been found to be subject to a guardianship under RCW 11.130.265.

(8) "Informed consent" means consent that is given after ~~((the))~~ (a) person: (a) Is provided with a description of the nature, character, and anticipated results of proposed treatments and alternatives, and the recognized serious possible risks, complications, and anticipated benefits in the treatments and alternatives, including nontreatment, in language that the person can reasonably be expected to understand; or (b) elects not to be given the information included in (a) of this subsection.

(9) "Long-term care facility" has the same meaning as defined in RCW 43.190.020.

(10) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(11) "Mental health advance directive" or "directive" means a written document in which the principal makes a declaration of instructions or preferences or appoints an agent to make decisions on behalf of the principal regarding the principal's mental health treatment, or both, and that is consistent with the provisions of this chapter.

(12) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(13) "Principal" means ~~((an adult))~~ a person who has executed a mental health advance directive.

(14) "Professional person" means a mental health professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(15) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(16) "Behavioral health disorder" means a mental disorder, a substance use disorder, or a co-occurring mental health and substance use disorder.

(17) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

Sec. 4. RCW 71.32.020 and 2020 c 312 s 732 and 2020 c 80 s 53 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) "Adult" means any individual who has attained the age of majority or is an emancipated minor.

(2) "Agent" has the same meaning as an attorney-in-fact or agent as provided in chapter 11.125 RCW.

(3) "Capacity" means that ~~((an adult))~~ a person has not been found to be incapacitated pursuant to this chapter or subject to a guardianship under RCW 11.130.265.

(4) "Court" means a superior court under chapter 2.08 RCW.

(5) "Health care facility" means a hospital, as defined in RCW 70.41.020; an institution, as defined in RCW 71.12.455; a state hospital, as defined in RCW 72.23.010; a nursing home, as defined in RCW 18.51.010; or a clinic that is part of a community (~~(mental [behavioral])~~) behavioral health service delivery system, as defined in RCW 71.24.025.

(6) "Health care provider" means an osteopathic physician licensed under chapter 18.57 RCW, a physician or physician's assistant licensed under chapter 18.71 or 18.71A RCW, or an advanced registered nurse practitioner licensed under RCW 18.79.050.

(7) "Incapacitated" means (~~(an adult)~~) a person who: (a) Is unable to understand the nature, character, and anticipated results of proposed treatment or alternatives; understand the recognized serious possible risks, complications, and anticipated benefits in treatments and alternatives, including nontreatment; or communicate his or her understanding or treatment decisions; or (b) has been found to be subject to a guardianship under RCW 11.130.265.

(8) "Informed consent" means consent that is given after (~~(the)~~) a person: (a) Is provided with a description of the nature, character, and anticipated results of proposed treatments and alternatives, and the recognized serious possible risks, complications, and anticipated benefits in the treatments and alternatives, including nontreatment, in language that the person can reasonably be expected to understand; or (b) elects not to be given the information included in (a) of this subsection.

(9) "Long-term care facility" has the same meaning as defined in RCW 43.190.020.

(10) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(11) "Mental health advance directive" or "directive" means a written document in which the principal makes a declaration of instructions or preferences or appoints an agent to make decisions on behalf of the principal regarding the principal's mental health treatment, or both, and that is consistent with the provisions of this chapter.

(12) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(13) "Principal" means (~~(an adult)~~) a person who has executed a mental health advance directive.

(14) "Professional person" means a mental health professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(15) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(16) "Behavioral health disorder" means a mental disorder, a substance use disorder, or a co-occurring mental health and substance use disorder.

(17) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a

substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

Sec. 5. RCW 71.32.030 and 2003 c 283 s 3 are each amended to read as follows:

(1) The definition of informed consent is to be construed to be consistent with that term as it is used in chapter 7.70 RCW.

(2) The definitions of mental disorder, behavioral health disorder, mental health professional, and professional person are to be construed to be consistent with those terms as they are defined in RCW 71.05.020.

Sec. 6. RCW 71.32.040 and 2003 c 283 s 4 are each amended to read as follows:

For the purposes of this chapter, an adult is presumed to have capacity. A person who is at least 13 years of age but under the age of majority is considered to have capacity for the purpose of executing a mental health advance directive if the person is able to demonstrate that they are capable of making informed decisions related to behavioral health care.

Sec. 7. RCW 71.32.050 and 2016 c 209 s 408 are each amended to read as follows:

(1) ~~((An adult))~~ A person with capacity may execute a mental health advance directive.

(2) A directive executed in accordance with this chapter is presumed to be valid. The inability to honor one or more provisions of a directive does not affect the validity of the remaining provisions.

(3) A directive may include any provision relating to ~~((mental))~~ behavioral health treatment or the care of the principal or the principal's personal affairs. Without limitation, a directive may include:

(a) The principal's preferences and instructions for ~~((mental))~~ behavioral health treatment;

(b) Consent to specific types of ~~((mental))~~ behavioral health treatment;

(c) Refusal to consent to specific types of ~~((mental))~~ behavioral health treatment;

(d) Consent to admission to and retention in a facility for ~~((mental))~~ behavioral health treatment for up to ~~((fourteen))~~ 14 days;

(e) Descriptions of situations that may cause the principal to experience a ~~((mental))~~ behavioral health crisis;

(f) Suggested alternative responses that may supplement or be in lieu of direct ~~((mental))~~ behavioral health treatment, such as treatment approaches from other providers;

(g) Appointment of an agent pursuant to chapter 11.125 RCW to make ~~((mental))~~ behavioral health treatment decisions on the principal's behalf, including authorizing the agent to provide consent on the principal's behalf to voluntary admission to inpatient ~~((mental))~~ behavioral health treatment; and

(h) The principal's nomination of a guardian or limited guardian as provided in RCW 11.125.080 for consideration by the court if guardianship proceedings are commenced.

(4) A directive may be combined with or be independent of a nomination of a guardian or other durable power of attorney under chapter 11.125 RCW, so long as the processes for each are executed in accordance with its own statutes.

Sec. 8. RCW 71.32.060 and 2016 c 209 s 409 are each amended to read as follows:

(1) A directive shall:

(a) Be in writing;

(b) Contain language that clearly indicates that the principal intends to create a directive;

(c) Be dated and signed by the principal or at the principal's direction in the principal's presence if the principal is unable to sign;

(d) Designate whether the principal wishes to be able to revoke the directive during any period of incapacity or wishes to be unable to revoke the directive during any period of incapacity; and

(e) ~~((Be))~~ Have the signature acknowledged before a notary public or other individual authorized by law to take acknowledgments, or be witnessed in writing by at least two adults, each of whom shall declare that he or she personally knows the principal, was present when the principal dated and signed the directive, and that the principal did not appear to be incapacitated or acting under fraud, undue influence, or duress.

(2) A directive that includes the appointment of an agent pursuant to a power of attorney under chapter 11.125 RCW shall contain the words "This power of attorney shall not be affected by the incapacity of the principal," or "This power of attorney shall become effective upon the incapacity of the principal," or similar words showing the principal's intent that the authority conferred shall be exercisable notwithstanding the principal's incapacity.

(3) A directive is valid upon execution, but all or part of the directive may take effect at a later time as designated by the principal in the directive.

(4) A directive may:

(a) Be revoked, in whole or in part, pursuant to the provisions of RCW 71.32.080; or

(b) Expire under its own terms.

Sec. 9. RCW 71.32.070 and 2003 c 283 s 7 are each amended to read as follows:

A directive may not:

(1) Create an entitlement to ~~((mental))~~ behavioral health or medical treatment or supersede a determination of medical necessity;

(2) Obligate any health care provider, professional person, or health care facility to pay the costs associated with the treatment requested;

(3) Obligate any health care provider, professional person, or health care facility to be responsible for the nontreatment personal care of the principal or the principal's personal affairs outside the scope of services the facility normally provides;

(4) Replace or supersede the provisions of any will or testamentary document or supersede the provisions of intestate succession;

(5) Be revoked by an incapacitated principal unless that principal selected the option to permit revocation while incapacitated at the time his or her directive was executed; or

(6) Be used as the authority for inpatient admission for more than ~~((fourteen))~~ 14 days in any ~~((twenty-one))~~ 21 day period.

Sec. 10. RCW 71.32.100 and 2016 c 209 s 410 are each amended to read as follows:

(1) If a directive authorizes the appointment of an agent, the provisions of chapter 11.125 RCW and RCW 7.70.065 shall apply unless otherwise stated in this chapter.

(2) The principal who appoints an agent must notify the agent in writing of the appointment.

(3) An agent must act in good faith.

(4) An agent may make decisions on behalf of the principal. Unless the principal has revoked the directive, the decisions must be consistent with the instructions and preferences the principal has expressed in the directive, or if not expressed, as otherwise known to the agent. If the principal's instructions or preferences are not known, the agent shall make a decision he or she determines is in the best interest of the principal.

(5) ~~((Except to the extent the right is limited by the appointment or any federal or state law, the agent has the same right as the principal to receive, review, and authorize the use and disclosure of the principal's health care information when the agent is acting on behalf of the principal and to the extent required for the agent to carry out his or her duties.))~~ A person authorized to act as an agent during periods when the principal is incapacitated may act as the principal's personal representative pursuant to the health insurance portability and accountability act, sections 1171 through 1179 of the social security act, 42 U.S.C. Sec. 1320d, as amended, and applicable regulations, to obtain access to the principal's health care information and communicate with the principal's health care provider. This subsection shall be construed to be consistent with chapters 70.02, 70.24, ~~((70.96A,))~~ 71.05, and 71.34 RCW, and with federal law regarding health care information.

(6) Unless otherwise provided in the appointment and agreed to in writing by the agent, the agent is not, as a result of acting in the capacity of agent, personally liable for the cost of treatment provided to the principal.

(7) An agent may resign or withdraw at any time by giving written notice to the principal. The agent must also give written notice to any health care provider, professional person, or health care facility providing treatment to the principal. The resignation or withdrawal is effective upon receipt unless otherwise specified in the resignation or withdrawal.

(8) If the directive gives the agent authority to act while the principal has capacity, the decisions of the principal supersede those of the agent at any time the principal has capacity.

(9) An agent's authority terminates when an action is filed for the dissolution or annulment of the agent's marriage to the principal or for their legal separation, or an action is filed for dissolution or annulment of the agent's state registered domestic partnership with the principal or for their legal separation.

(10) Unless otherwise provided in the durable power of attorney, the principal may revoke the agent's appointment as provided under other state law.

Sec. 11. RCW 71.32.110 and 2016 c 155 s 13 are each amended to read as follows:

(1) For the purposes of this chapter, a principal, agent, professional person, or health care provider may seek a determination whether the principal is incapacitated or has regained capacity.

(2)(a) For the purposes of this chapter, no adult may be declared an incapacitated person except by:

(i) A court, if the request is made by the principal or the principal's agent;

(ii) One mental health professional or substance use disorder professional and one health care provider; or

(iii) Two health care providers.

(b) One of the persons making the determination under (a)(ii) or (iii) of this subsection must be a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, or a psychiatric advanced registered nurse practitioner.

(3) When a professional person or health care provider requests a capacity determination, he or she shall promptly inform the principal that:

(a) A request for capacity determination has been made; and

(b) The principal may request that the determination be made by a court.

(4) At least one mental health professional, substance use disorder professional, or health care provider must personally examine the principal prior to making a capacity determination.

(5)(a) When a court makes a determination whether a principal has capacity, the court shall, at a minimum, be informed by the testimony of one mental health professional or substance use disorder professional familiar with the principal and shall, except for good cause, give the principal an opportunity to appear in court prior to the court making its determination.

(b) To the extent that local court rules permit, any party or witness may testify telephonically.

(6) When a court has made a determination regarding a principal's capacity and there is a subsequent change in the principal's condition, subsequent determinations whether the principal is incapacitated may be made in accordance with any of the provisions of subsection (2) of this section.

Sec. 12. RCW 71.32.130 and 2003 c 283 s 13 are each amended to read as follows:

(1) An initial determination of capacity must be completed within (~~forty-eight~~) 48 hours of a request made by a person authorized in RCW 71.32.110. During the period between the request for an initial determination of the principal's capacity and completion of that determination, the principal may not be treated unless he or she consents at the time or treatment is otherwise authorized by state or federal law.

(2)(a)(i) When an incapacitated principal is admitted to inpatient treatment pursuant to the provisions of his or her directive, his or her capacity must be reevaluated within (~~seventy-two~~) 120 hours or when there has been a change in the principal's condition that indicates that he or she appears to have regained capacity, whichever occurs first.

(ii) When an incapacitated principal has been admitted to and remains in inpatient treatment for more than (~~seventy-two~~) 120 hours pursuant to the provisions of his or her directive, the principal's capacity must be reevaluated when there has been a change in his or her condition that indicates that he or she appears to have regained capacity.

(iii) When a principal who is being treated on an inpatient basis and has been determined to be incapacitated requests, or his or her agent requests, a

redetermination of the principal's capacity the redetermination must be made within (~~(seventy-two)~~) 120 hours.

(b) When a principal who has been determined to be incapacitated is being treated on an outpatient basis and there is a request for a redetermination of his or her capacity, the redetermination must be made within five days of the first request following a determination.

(3)(a) When a principal who has appointed an agent for (~~(mental)~~) behavioral health treatment decisions requests a determination or redetermination of capacity, the agent must make reasonable efforts to obtain the determination or redetermination.

(b) When a principal who does not have an agent for (~~(mental)~~) behavioral health treatment decisions is being treated in an inpatient facility and requests a determination or redetermination of capacity, the mental health professional or health care provider must complete the determination or, if the principal is seeking a determination from a court, must make reasonable efforts to notify the person authorized to make decisions for the principal under RCW 7.70.065 of the principal's request.

(c) When a principal who does not have an agent for (~~(mental)~~) behavioral health treatment decisions is being treated on an outpatient basis, the person requesting a capacity determination must arrange for the determination.

(4) If no determination has been made within the time frames established in subsection (1) or (2) of this section, the principal shall be considered to have capacity.

(5) When an incapacitated principal is being treated pursuant to his or her directive, a request for a redetermination of capacity does not prevent treatment.

Sec. 13. RCW 71.32.140 and 2016 sp.s. c 29 s 424 and 2016 c 155 s 14 are each reenacted and amended to read as follows:

(1) A principal who:

(a) Chose not to be able to revoke his or her directive during any period of incapacity;

(b) Consented to voluntary admission to inpatient (~~(mental)~~) behavioral health treatment, or authorized an agent to consent on the principal's behalf; and

(c) At the time of admission to inpatient treatment, refuses to be admitted, may only be admitted into inpatient (~~(mental)~~) behavioral health treatment under subsection (2) of this section.

(2) A principal may only be admitted to inpatient (~~(mental)~~) behavioral health treatment under his or her directive if, prior to admission, a member of the treating facility's professional staff who is a physician, physician assistant, or psychiatric advanced registered nurse practitioner:

(a) Evaluates the principal's mental condition, including a review of reasonably available psychiatric and psychological history, diagnosis, and treatment needs, and determines, in conjunction with another health care provider (~~(or)~~) mental health professional, or substance use disorder professional, that the principal is incapacitated;

(b) Obtains the informed consent of the agent, if any, designated in the directive;

(c) Makes a written determination that the principal needs an inpatient evaluation or is in need of inpatient treatment and that the evaluation or treatment cannot be accomplished in a less restrictive setting; and

(d) Documents in the principal's medical record a summary of the physician's, physician assistant's, or psychiatric advanced registered nurse practitioner's findings and recommendations for treatment or evaluation.

(3) In the event the admitting physician is not a psychiatrist, the admitting physician assistant is not supervised by a psychiatrist, or the advanced registered nurse practitioner is not a psychiatric advanced registered nurse practitioner, the principal shall receive a complete ~~((psychological))~~ behavioral health assessment by a mental health professional or substance use disorder professional within ~~((twenty-four))~~ 24 hours of admission to determine the continued need for inpatient evaluation or treatment.

(4)(a) If it is determined that the principal has capacity, then the principal may only be admitted to, or remain in, inpatient treatment if he or she consents at the time, is admitted for family-initiated treatment under chapter 71.34 RCW, or is detained under the involuntary treatment provisions of chapter 71.05 or 71.34 RCW.

(b) If a principal who is determined by two health care providers or one mental health professional or substance use disorder professional and one health care provider to be incapacitated continues to refuse inpatient treatment, the principal may immediately seek injunctive relief for release from the facility.

(5) If, at the end of the period of time that the principal or the principal's agent, if any, has consented to voluntary inpatient treatment, but no more than ~~((fourteen))~~ 14 days after admission, the principal has not regained capacity or has regained capacity but refuses to consent to remain for additional treatment, the principal must be released during reasonable daylight hours, unless detained under chapter 71.05 or 71.34 RCW.

(6)(a) Except as provided in (b) of this subsection, any principal who is voluntarily admitted to inpatient ~~((mental))~~ behavioral health treatment under this chapter shall have all the rights provided to individuals who are voluntarily admitted to inpatient treatment under chapter 71.05, 71.34, or 72.23 RCW.

(b) Notwithstanding RCW 71.05.050 regarding consent to inpatient treatment for a specified length of time, the choices an incapacitated principal expressed in his or her directive shall control, provided, however, that a principal who takes action demonstrating a desire to be discharged, in addition to making statements requesting to be discharged, shall be discharged, and no principal shall be restrained in any way in order to prevent his or her discharge. Nothing in this subsection shall be construed to prevent detention and evaluation for civil commitment under chapter 71.05 RCW.

(7) Consent to inpatient admission in a directive is effective only while the professional person, health care provider, and health care facility are in substantial compliance with the material provisions of the directive related to inpatient treatment.

Sec. 14. RCW 71.32.170 and 2003 c 283 s 17 are each amended to read as follows:

(1) For the purposes of this section, "provider" means a private or public agency, government entity, health care provider, professional person, health care facility, or person acting under the direction of a health care provider or professional person, health care facility, or long-term care facility.

(2) A provider is not subject to civil liability or sanctions for unprofessional conduct under the uniform disciplinary act, chapter 18.130 RCW, when in good faith and without negligence:

(a) The provider provides treatment to a principal in the absence of actual knowledge of the existence of a directive, or provides treatment pursuant to a directive in the absence of actual knowledge of the revocation of the directive;

(b) A health care provider or mental health professional determines that the principal is or is not incapacitated for the purpose of deciding whether to proceed according to a directive, and acts upon that determination;

(c) The provider administers or does not administer (~~(mental)~~) behavioral health treatment according to the principal's directive in good faith reliance upon the validity of the directive and the directive is subsequently found to be invalid;

(d) The provider does not provide treatment according to the directive for one of the reasons authorized under RCW 71.32.150; or

(e) The provider provides treatment according to the principal's directive.

Sec. 15. RCW 71.32.180 and 2016 c 209 s 411 are each amended to read as follows:

(1) Where an incapacitated principal has executed more than one valid directive and has not revoked any of the directives:

(a) The directive most recently created shall be treated as the principal's (~~(mental)~~) behavioral health treatment preferences and instructions as to any inconsistent or conflicting provisions, unless provided otherwise in either document.

(b) Where a directive executed under this chapter is inconsistent with a directive executed under any other chapter, the most recently created directive controls as to the inconsistent provisions.

(2) Where an incapacitated principal has appointed more than one agent under chapter 11.125 RCW with authority to make (~~(mental)~~) behavioral health treatment decisions, RCW 11.125.400 controls.

(3) The treatment provider shall inquire of a principal whether the principal is subject to any court orders that would affect the implementation of his or her directive.

Sec. 16. RCW 71.32.210 and 2003 c 283 s 21 are each amended to read as follows:

The fact that a person has executed a directive does not constitute an indication of (~~(mental)~~) behavioral health disorder or that the person is not capable of providing informed consent.

Sec. 17. RCW 71.32.220 and 2003 c 283 s 22 are each amended to read as follows:

A person shall not be required to execute or to refrain from executing a directive, nor shall the existence of a directive be used as a criterion for insurance, as a condition for receiving (~~(mental)~~) behavioral or physical health services, or as a condition of admission to or discharge from a health care facility or long-term care facility.

Sec. 18. RCW 71.32.250 and 2016 c 155 s 15 are each amended to read as follows:

(1) If a principal who is a resident of a long-term care facility is admitted to inpatient (~~(mental)~~) behavioral health treatment pursuant to his or her directive,

the principal shall be allowed to be readmitted to the same long-term care facility as if his or her inpatient admission had been for a physical condition on the same basis that the principal would be readmitted under state or federal statute or rule when:

(a) The treating facility's professional staff determine that inpatient ~~((mental))~~ behavioral health treatment is no longer medically necessary for the resident. The determination shall be made in writing by a psychiatrist, physician assistant working with a supervising psychiatrist, or a psychiatric advanced registered nurse practitioner, or (i) one physician and a mental health professional or substance use disorder professional; (ii) one physician assistant and a mental health professional or substance use disorder professional; or (iii) one psychiatric advanced registered nurse practitioner and a mental health professional or substance use disorder professional; or

(b) The person's consent to admission in his or her directive has expired.

(2)(a) If the long-term care facility does not have a bed available at the time of discharge, the treating facility may discharge the resident, in consultation with the resident and agent if any, and in accordance with a medically appropriate discharge plan, to another long-term care facility.

(b) This section shall apply to inpatient ~~((mental))~~ behavioral health treatment admission of long-term care facility residents, regardless of whether the admission is directly from a facility, hospital emergency room, or other location.

(c) This section does not restrict the right of the resident to an earlier release from the inpatient treatment facility. This section does not restrict the right of a long-term care facility to initiate transfer or discharge of a resident who is readmitted pursuant to this section, provided that the facility has complied with the laws governing the transfer or discharge of a resident.

(3) The joint legislative audit and review committee shall conduct an evaluation of the operation and impact of this section. The committee shall report its findings to the appropriate committees of the legislature by December 1, 2004.

Sec. 19. RCW 71.32.260 and 2016 c 209 s 413 and 2016 c 155 s 16 are each reenacted and amended to read as follows:

The directive shall be in substantially the following form:

~~((Mental Health Advance Directive~~

NOTICE TO PERSONS

~~CREATING A MENTAL HEALTH ADVANCE DIRECTIVE~~

~~This is an important legal document. It creates an advance directive for mental health treatment. Before signing this document you should know these important facts:~~

~~(1) This document is called an advance directive and allows you to make decisions in advance about your mental health treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.~~

~~YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.~~

~~IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.~~

If you choose to complete and sign this document, you may still decide to leave some items blank.

(2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in your best interest. Your agent has the right to withdraw from the appointment at any time.

(3) The instructions you include with this advance directive and the authority you give your agent to act will only become effective under the conditions you select in this document. You may choose to limit this directive and your agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior that you specify. You may also make this directive effective immediately. No matter when you choose to make this directive effective, your treatment providers must still seek your informed consent at all times that you have capacity to give informed consent.

(4) You have the right to revoke this document in writing at any time you have capacity.

~~YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT YOU WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.~~

(5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an expiration date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to make treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke the directive.

(6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a different process.

(7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

(8) You should be aware that there are some circumstances where your provider may not have to follow your directive.

(9) You should discuss any treatment decisions in your directive with your provider.

(10) You may ask the court to rule on the validity of your directive.

**PART I.
STATEMENT OF INTENT TO CREATE A
MENTAL HEALTH ADVANCE DIRECTIVE**

I, being a person with capacity, willfully and voluntarily execute this mental health advance directive so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express my instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent. The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she determines is in my best interest. I intend this directive to take precedence over any other directives I have previously executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either document.

I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this directive while incapacitated.

I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider, professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect, financial exploitation, or abandonment to carry out my directive.

I understand that there are some circumstances where my provider may not have to follow my directive.

**PART II.
WHEN THIS DIRECTIVE IS EFFECTIVE**

YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I intend that this directive become effective (*YOU MUST CHOOSE ONLY ONE*):

. Immediately upon my signing of this directive.

. If I become incapacitated.

. When the following circumstances, symptoms, or behaviors occur:

**PART III.
DURATION OF THIS DIRECTIVE**

YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I want this directive to (*YOU MUST CHOOSE ONLY ONE*):

..... Remain valid and in effect for an indefinite period of time.

..... Automatically expire years from the date it was created.

**PART IV.
WHEN I MAY REVOKE THIS DIRECTIVE**

YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.

I intend that I be able to revoke this directive (*YOU MUST CHOOSE ONLY ONE*):

..... Only when I have capacity.

I understand that choosing this option means I may only revoke this directive if I have capacity. I further understand that if I choose this option and become incapacitated while this directive is in effect, I may receive treatment that I specify in this directive, even if I object at the time.

..... Even if I am incapacitated.

I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further understand that if I choose this option and revoke this directive while I am incapacitated I may not receive treatment that I specify in this directive, even if I want the treatment.

**PART V.
PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT,
FACILITIES, AND PHYSICIANS [, PHYSICIAN ASSISTANTS,] OR
PSYCHIATRIC ADVANCED REGISTERED NURSE-
PRACTITIONERS**

~~A. Preferences and Instructions About Physician(s), Physician Assistant(s), or Psychiatric Advanced Registered Nurse Practitioner(s) to be Involved in My Treatment~~

I would like the physician(s), physician assistant(s), or psychiatric advanced registered nurse practitioner(s) named below to be involved in my treatment decisions:

Dr., PA-C, or PARNP Contact information:

Dr., PA-C, or PARNP Contact information:

I do not wish to be treated by Dr. or PARNP

~~B. Preferences and Instructions About Other Providers~~

I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like the following treatment provider(s) to be contacted when this directive is effective:

Name Profession Contact information

Name Profession Contact information

~~C. Preferences and Instructions About Medications for Psychiatric Treatment~~ (initial and complete all that apply)

..... I consent, and authorize my agent (if appointed) to consent, to the following medications:

..... I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the following medications:

..... I am willing to take the medications excluded above if my only reason for excluding them is the side effects which include and these side effects can be eliminated by dosage adjustment or other means

..... I am willing to try any other medication the hospital doctor, physician assistant, or psychiatric advanced registered nurse practitioner recommends

..... I am willing to try any other medications my outpatient doctor, physician assistant, or psychiatric advanced registered nurse practitioner recommends

..... I do not want to try any other medications.

~~Medication Allergies~~

I have allergies to, or severe side effects from, the following:

~~Other Medication Preferences or Instructions~~

..... I have the following other preferences or instructions about medications

~~D. Preferences and Instructions About Hospitalization and Alternatives~~ (initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on)

..... In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities designed as alternatives to psychiatric hospitalizations.

..... I would also like the interventions below to be tried before hospitalization is considered:

..... Calling someone or having someone call me when needed.

Name:-

Telephone:-

..... Staying overnight with someone

Name:- Telephone:-

..... Having a mental health service provider come to see me

..... Going to a crisis triage center or emergency room

..... Staying overnight at a crisis respite (temporary) bed

..... Seeing a service provider for help with psychiatric medications

..... Other, specify:-

Authority to Consent to Inpatient Treatment

I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment for days (*not to exceed 14 days*)

(Sign one):

..... If deemed appropriate by my agent (if appointed) and treating physician, physician assistant, or psychiatric advanced registered nurse practitioner

(Signature)

or

..... Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for hospitalization)-

(Signature)

..... I do **not** consent, or authorize my agent (if appointed) to consent, to inpatient treatment

(Signature)

Hospital Preferences and Instructions

If hospitalization is required, I prefer the following hospitals:-

I do not consent to be admitted to the following hospitals:-

E. Preferences and Instructions About Preemergency

I would like the interventions below to be tried before use of seclusion or restraint is considered

(initial all that apply):

..... "Talk me down" one-on-one

..... More medication

..... Time out/privacy

..... Show of authority/force

..... Shift my attention to something else

..... Set firm limits on my behavior

..... Help me to discuss/vent feelings

- Decrease stimulation
- Offer to have neutral person settle dispute
- Other, specify

F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications

If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of medication, I prefer these interventions in the order I have chosen (*choose "1" for first choice, "2" for second choice, and so on*):

- Seclusion
- Seclusion and physical restraint (combined)
- Medication by injection
- Medication in pill or liquid form

In the event that my attending physician, physician assistant, or psychiatric advanced registered nurse practitioner decides to use medication in response to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part III C of this form. The preferences and instructions I express in this section regarding medication in emergency situations do not constitute consent to use of the medication for nonemergency treatment.

G. Preferences and Instructions About Electroconvulsive Therapy (ECT or Shock Therapy)

My wishes regarding electroconvulsive therapy are (*sign one*):

- I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

(Signature)

- I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

(Signature)

- I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy, but only under the following conditions:

(Signature)

H. Preferences and Instructions About Who is Permitted to Visit

If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

Name:-

Name:-

Name:-

I understand that persons not listed above may be permitted to visit me.

I. Additional Instructions About My Mental Health Care

Other instructions about my mental health care:-

In case of emergency, please contact:

Name:-

Address:-

Work telephone:-

Home telephone:-

Physician, Physician Assistant, Address:-

or Psychiatric Advanced

Registered Nurse Practitioner:-

Telephone:-

The following may help me to avoid a hospitalization:-

I generally react to being hospitalized as follows:-

Staff of the hospital or crisis unit can help me by doing the following:-

J. Refusal of Treatment

I do not consent to any mental health treatment.

(Signature)

PART VI-

DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)

(Fill out this part only if you wish to appoint an agent or nominate a guardian.)

I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not expressed a choice in this document **and my agent does not otherwise know my wishes**, I authorize my agent to make the decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity. Unless I state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

A. Designation of an Agent

I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this document and request that this person be notified immediately when this directive becomes effective:

Name:- Address:-
 Work telephone:- Home telephone:-
 Relationship:-

B. Designation of Alternate Agent

If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified immediately when this directive becomes effective or when my original agent is no longer my agent:

Name:- Address:-
 Work telephone:- Home telephone:-
 Relationship:-

C. When My Spouse is My Agent *(initial if desired)*

..... If my spouse is my agent, that person shall remain my agent even if we become legally separated or our marriage is dissolved, unless there is a court order to the contrary or I have remarried.

D. Limitations on My Agent's Authority

I do not grant my agent the authority to consent on my behalf to the following:

E. Limitations on My Ability to Revoke this Durable Power of Attorney

I choose to limit my ability to revoke this durable power of attorney as follows:

F. Preference as to Court Appointed Guardian

In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I **nominate** the following person as my guardian:

Name:- Address:-
 Work telephone:- Home telephone:-
 Relationship:-

The appointment of a guardian of my estate or my person or any other decision-maker shall not give the guardian or decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as authorized by law.

(Signature required if nomination is made)

**PART VII.
OTHER DOCUMENTS**

(Initial all that apply)

I have executed the following documents that include the power to make decisions regarding health care services for myself:

..... Health care power of attorney (chapter 11.125 RCW)
..... "Living will" (Health care directive; chapter 70.122 RCW)
..... I have appointed more than one agent. I understand that the most recently appointed agent controls except as stated below:

PART VIII.

NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS

(Fill out this part only if you wish to provide nontreatment instructions.)

I understand the preferences and instructions in this part are **NOT** the responsibility of my treatment provider and that no treatment provider is required to act on them.

A. Who Should Be Notified

I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

Name:- Address:-
Day telephone:- Evening telephone:-
Name:- Address:-
Day telephone:- Evening telephone:-

B. Preferences or Instructions About Personal Affairs

I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I am admitted to a mental health treatment facility:

C. Additional Preferences and Instructions:

**PART IX.
SIGNATURE**

By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in this directive. I intend that my consent in this directive be construed as being consistent with the elements of informed consent under chapter 7.70 RCW.

Signature:- Date:-
Printed Name:-

This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does not appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:
(A) A person designated to make medical decisions on the principal's behalf;

(B) A health care provider or professional person directly involved with the provision of care to the principal at the time the directive is executed;

(C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility in which the principal is a patient or resident;

(D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating relationship as defined in RCW 26.50.010;

(E) An incapacitated person;

(F) A person who would benefit financially if the principal undergoes mental health treatment; or

(G) A minor.

Witness 1: Signature:- Date:-
Printed Name:-
 Telephone:- Address:-

Witness 2: Signature:- Date:-
Printed Name:-
 Telephone:- Address:-

**PART X.
RECORD OF DIRECTIVE**

I have given a copy of this directive to the following persons:-
DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE THIS DIRECTIVE IN PART OR IN WHOLE

**PART XI.
REVOCATION OF THIS DIRECTIVE**

(Initial any that apply):
..... I am revoking the following part(s) of this directive (specify):-
..... I am revoking all of this directive.

By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by any revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked provision(s).

Signature:- Date:-
Printed Name:-

DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS DIRECTIVE IN PART OR IN WHOLE))

Mental Health Advance Directive of (client name)
With Appointment of (agent name) as
Agent for Mental Health Decisions

PART I.

STATEMENT OF INTENT TO CREATE A
MENTAL HEALTH ADVANCE DIRECTIVE

I, (Client name), being a person with capacity, willfully and voluntarily execute this mental health advance directive so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express my instructions and preferences regarding my mental health care.

PART II.

MY CARE NEEDS - WHAT WORKS FOR ME

In order to assist in carrying out my directive I would like my providers and my agent to know the following information:

I have been diagnosed with (client illnesses both mental health and physical diagnoses) for which I take (list medications).

I am also on the following other medications: (list any other medications for other conditions).

The best treatment method for my illness is (give general overview of what works best for client).

I have/do not have a history of substance abuse. My preferences and treatment options around medication management related to substance abuse are:

PART III.

WHEN THIS DIRECTIVE IS EFFECTIVE

(You must complete this part for your directive to be valid.)

I intend that this directive become effective (YOU MUST CHOOSE ONLY ONE):

. Immediately upon my signing of this directive.

. If I become incapacitated.

. When the following circumstances, symptoms, or behaviors occur:

PART IV.

DURATION OF THIS DIRECTIVE

(You must complete this part for your directive to be valid.)

I want this directive to (YOU MUST CHOOSE ONLY ONE):

. Remain valid and in effect for an indefinite period of time.

. Automatically expire years from the date it was created.

PART V.

WHEN I MAY REVOKE THIS DIRECTIVE

(You must complete this part for this directive to be valid.)

I intend that I be able to revoke this directive (YOU MUST CHOOSE ONLY ONE):

. Only when I have capacity.

I understand that choosing this option means I may only revoke this directive if I have capacity. I further understand that if I choose this option and become incapacitated while this directive is in effect, I may receive treatment that I specify in this directive, even if I object at the time.

. Even if I am incapacitated.

I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further understand that if I choose this option and revoke this directive while I am incapacitated I may not receive treatment that I specify in this directive, even if I want the treatment.

PART VI.

PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS, PHYSICIAN ASSISTANTS, OR ADVANCED REGISTERED NURSE PRACTITIONERS

A. Preferences and Instructions About Physician(s), Physician Assistant(s), or Advanced Registered Nurse Practitioner(s) to be Involved in My Treatment

I would like the physician(s), physician assistant(s), or advanced registered nurse practitioner(s) named below to be involved in my treatment decisions:

I do not wish to be treated by

B. Preferences and Instructions About Other Providers

I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like the following treatment provider(s) to be contacted when this directive is effective:

C. Preferences and Instructions About Medications for Psychiatric Treatment (check all that apply)

..... I consent, and authorize my agent (if appointed) to consent, to the following medications:

..... I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the following medications:

..... I am willing to take the medications excluded above if my only reason for excluding them is the side effects which include:

and these side effects can be eliminated by dosage adjustment or other means

..... I am willing to try any other medication the hospital doctor, physician assistant, or advanced registered nurse practitioner recommends.

..... I am willing to try any other medications my outpatient doctor, physician assistant, or advanced registered nurse practitioner recommends.

..... I do not want to try any other medications.

Medication Allergies.

I have allergies to, or severe side effects from, the following:

Other Medication Preferences or Instructions

..... I have the following other preferences or instructions about medications:

D. Preferences and Instructions About Hospitalization and Alternatives

(check all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on)

..... In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities designed as alternatives to psychiatric hospitalizations.

..... I would also like the interventions below to be tried before hospitalization is considered:

..... Calling someone or having someone call me when needed.

Name: Telephone/text: Email:

..... Staying overnight with someone

Name: Telephone/text: Email:

..... Having a mental health service provider come to see me.

..... Going to a crisis triage center or emergency room.

..... Staying overnight at a crisis respite (temporary) bed.

..... Seeing a service provider for help with psychiatric medications.

..... Other, specify:

Authority to Consent to Inpatient Treatment

I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment for days (not to exceed 14 days).

(Sign one):

..... If deemed appropriate by my agent (if appointed) and treating physician, physician assistant, or advanced registered nurse practitioner

(Signature)

Or

..... Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for hospitalization)

(Signature)

..... I do not consent, or authorize my agent (if appointed) to consent, to inpatient treatment

(Signature)

Hospital Preferences and Instructions

If hospitalization is required, I prefer the following hospitals:

I do not consent to be admitted to the following hospitals:

E. Preferences and Instructions About Preemergency

I would like the interventions below to be tried before use of seclusion or restraint is considered (check all that apply):

..... "Talk me down" one-on-one

..... More medication

..... Time out/privacy

..... Show of authority/force

..... Shift my attention to something else

..... Set firm limits on my behavior

..... Help me to discuss/vent feelings

..... Decrease stimulation

..... Offer to have neutral person settle dispute

..... Other:

F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications

If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of medication, I prefer these interventions in the order I have chosen (choose "1" for first choice, "2" for second choice, and so on):

..... Seclusion

..... Seclusion and physical restraint (combined)

..... Medication by injection

..... Medication in pill or liquid form

In the event that my attending physician, physician assistant, or advanced registered nurse practitioner decides to use medication in response to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part VI C. of this form. The preferences and instructions I express in this section regarding medication in emergency situations do not constitute consent to use of the medication for nonemergency treatment.

G. Preferences and Instructions About Electroconvulsive Therapy (ECT or Shock Therapy)

My wishes regarding electroconvulsive therapy are (sign one):

..... I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

(Signature)

..... I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

(Signature)

..... I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy, but only under the following conditions:

(Signature)

H. Preferences and Instructions About Who is Permitted to Visit

If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

Name:

Name:

I understand that persons not listed above may be permitted to visit me.

I. Additional Instructions About My Mental Health Care

Other instructions about my mental health care:

In case of emergency, please contact:

Name: Address:
Work telephone: Home telephone:
Physician, physician assistant, Address:
or advanced registered nurse Email:
practitioner:
Telephone:

The following may help me to avoid a hospitalization:

I generally react to being hospitalized as follows:

Staff of the hospital or crisis unit can help me by doing the following:

J. Refusal of Treatment

I do not consent to any mental health treatment.

(Signature)

PART VII.
DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY
AGENT)

(Fill out this part only if you wish to appoint an agent or nominate a guardian.)

I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not expressed a choice in this document **and my agent does not otherwise know my wishes**, I authorize my agent to make the decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity. Unless I state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

HIPAA Release Authority. In addition to the other powers granted by this document, I grant to my Attorney-in-Fact the power and authority to serve as my personal representative for all purposes under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended from time to time, and its regulations. My Attorney-in-Fact will serve as my "HIPAA personal representative" and will exercise this authority at any time that my Attorney-in-Fact is exercising authority under this document.

A. Designation of an Agent

Name: Address:
Work phone: Home/cell phone:

Relationship:

Email:

B. Designation of Alternate Agent

If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified immediately when this directive becomes effective or when my original agent is no longer my agent:

Name:

Address:

Work phone:

Home phone:

Relationship:

Email:

C. Limitations on My Agent's Authority

I do not grant my agent the authority to consent on my behalf to the following:

D. Limitations on My Ability to Revoke this Durable Power of Attorney

I choose to limit my ability to revoke this durable power of attorney as follows:

E. Preference as to Court-Appointed Guardian

In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I **nominate** my then-serving agent (or name someone else) as my guardian:

Name and contact information (if someone other than agent or alternate):

The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as authorized by law.

PART VIII.

OTHER DOCUMENTS

(Initial all that apply)

I have executed the following documents that include the power to make decisions regarding health care services for myself:

..... Health care power of attorney (chapter 11.125 RCW)

..... "Living will" (Health care directive; chapter 70.122 RCW)

..... I have appointed more than one agent. I understand that the most recently appointed agent controls except as stated below:

PART IX.

NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS

(Fill out this part only if you wish to provide nontreatment instructions.)

I understand the preferences and instructions in this part are **NOT** the responsibility of my treatment provider and that no treatment provider is required to act on them.

A. Who Should Be Notified

I desire my agent to notify the following individuals as soon as possible if I am admitted to a mental health facility:

- Name: _____ Address: _____
- Day telephone: _____ Evening telephone: _____
- Name: _____ Address: _____
- Day telephone: _____ Evening telephone: _____
- Name: _____ Address: _____
- Day telephone: _____ Evening telephone: _____

B. Preferences or Instructions About Personal Affairs

I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I am admitted to a mental health treatment facility:

C. Additional Preferences and Instructions:

PART X.
SIGNATURE

By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in this directive. I intend that my consent in this directive be construed as being consistent with the elements of informed consent under chapter 7.70 RCW.

In witness of this, I have signed on this
day of, 20. . . .

Signature:
STATE OF WASHINGTON)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that (client name) is the person who appeared before me, and said person acknowledged that he or she signed this Durable Power of Attorney and acknowledged it to be his or her free and voluntary act for the uses and purposes mentioned in this instrument.

SUBSCRIBED and SWORN to before me this
. day of, 20. . . .

SIGNATURE OF NOTARYPRINT NAME OF NOTARYNOTARY PUBLIC for the State of
Washington atMy commission expiresOR have two witnesses:Name:

This directive was signed and declared by the "Principal," to be his or her
directive, in our presence who, at his or her request, have signed our names
below as witnesses. We declare that, at the time of the creation of this
instrument, the Principal is personally known to us, and, according to our best
knowledge and belief, has capacity at this time and does not appear to be acting
under duress, undue influence, or fraud. We further declare that none of us is:

(A) A person designated to make medical decisions on the principal's behalf;

(B) A health care provider or professional person directly involved with the
provision of care to the principal at the time the directive is executed;

(C) An owner, operator, employee, or relative of an owner or operator of a
health care facility or long-term care facility in which the principal is a patient
or resident;

(D) A person who is related by blood, marriage, or adoption to the person, or
with whom the principal has a dating relationship as defined in RCW
26.50.010;

(E) An incapacitated person;

(F) A person who would benefit financially if the principal undergoes mental
health treatment; or

(G) A minor.

Witness 1 Signature:

Date:

Printed Name:

Address:

Telephone:

Witness 2 Signature:

Date:

Printed Name:

Address:

Telephone:

PART XI.
RECORD OF DIRECTIVE

I have given a copy of this directive to the following persons:

Name:

Address:

Day telephone: Evening telephone:

Name: Address:

Day telephone: Evening telephone:

DO NOT FILL OUT PART XII UNLESS
YOU INTEND TO REVOKE THIS
DIRECTIVE IN PART OR IN WHOLE

PART XII.
REVOCAION OF THIS DIRECTIVE

(Initial any that apply):

..... I am revoking the following part(s) of this directive (specify):

Date:

..... I am revoking all of this directive.

By signing here, I indicate that I understand the purpose and effect of my
revocation and that no person is bound by any revoked provision(s). I intend
this revocation to be interpreted as if I had never completed the revoked
provision(s).

(Signature)

Printed Name:

**DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS
DIRECTIVE IN PART OR IN WHOLE**

NEW SECTION. Sec. 20. A new section is added to chapter 71.32 RCW to read as follows:

Nothing in this chapter restricts the right of a parent to seek behavioral health evaluation and treatment for a nonconsenting adolescent using family-initiated treatment laws under chapter 71.34 RCW.

Sec. 21. RCW 71.34.755 and 2020 c 302 s 96 are each amended to read as follows:

(1) Less restrictive alternative treatment, at a minimum, must include the following services:

- (a) Assignment of a care coordinator;
- (b) An intake evaluation with the provider of the less restrictive alternative treatment;
- (c) A psychiatric evaluation;
- (d) A schedule of regular contacts with the provider of the less restrictive alternative treatment services for the duration of the order;
- (e) A transition plan addressing access to continued services at the expiration of the order;
- (f) An individual crisis plan; ~~((and))~~
- (g) Consultation about the formation of a mental health advance directive under chapter 71.32 RCW; and

(h) Notification to the care coordinator assigned in (a) of this subsection if reasonable efforts to engage the client fail to produce substantial compliance with court-ordered treatment conditions.

(2) Less restrictive alternative treatment may include the following additional services:

- (a) Medication management;
- (b) Psychotherapy;
- (c) Nursing;
- (d) Substance abuse counseling;
- (e) Residential treatment; and
- (f) Support for housing, benefits, education, and employment.

(3) If the minor was provided with involuntary medication during the involuntary commitment period, the less restrictive alternative treatment order may authorize the less restrictive alternative treatment provider or its designee to administer involuntary antipsychotic medication to the person if the provider has attempted and failed to obtain the informed consent of the person and there is a concurring medical opinion approving the medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with an independent mental health professional with prescribing authority.

(4) Less restrictive alternative treatment must be administered by a provider that is certified or licensed to provide or coordinate the full scope of services required under the less restrictive alternative order and that has agreed to assume this responsibility.

(5) The care coordinator assigned to a minor ordered to less restrictive alternative treatment must submit an individualized plan for the minor's treatment services to the court that entered the order. An initial plan must be submitted as soon as possible following the intake evaluation and a revised plan must be submitted upon any subsequent modification in which a type of service is removed from or added to the treatment plan.

(6) For the purpose of this section, "care coordinator" means a clinical practitioner who coordinates the activities of less restrictive alternative treatment. The care coordinator coordinates activities with the designated crisis responders that are necessary for enforcement and continuation of less restrictive alternative treatment orders and is responsible for coordinating service activities with other agencies and establishing and maintaining a therapeutic relationship with the individual on a continuing basis.

NEW SECTION. Sec. 22. Section 2 of this act expires January 1, 2022.

NEW SECTION. Sec. 23. Section 3 of this act takes effect January 1, 2022.

NEW SECTION. Sec. 24. Section 3 of this act expires July 1, 2022.

NEW SECTION. Sec. 25. Section 4 of this act takes effect July 1, 2022.

Passed by the Senate April 15, 2021.

Passed by the House April 8, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 288

[Substitute Senate Bill 5378]

REAL ESTATE BROKERS AND MANAGING BROKERS—CONTINUING EDUCATION

AN ACT Relating to real estate brokers and managing brokers license renewal requirements; amending RCW 18.85.211 and 18.85.101; and providing an effective date.

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

Sec. 1. RCW 18.85.211 and 2008 c 23 s 22 are each amended to read as follows:

(1) All real estate brokers and managing brokers shall furnish proof as prescribed by rule of the director that they have successfully completed at least the required minimum number of (~~(thirty)~~) 30 clock hours of instruction every two years in real estate courses approved by the director to renew their licenses. The director may adopt rules to limit the number of hours of distance education courses that may be used for license renewal. Up to (~~(fifteen)~~) 15 clock hours of instruction in excess of the required (~~(thirty)~~) 30 clock hours acquired within the immediately preceding two-year period may be carried forward for credit in a subsequent two-year period. Examinations shall not be required to fulfill any part of the education requirement in this section.

(2) For active license renewals, three hours of the required 30 hours of instruction in subsection (1) of this section must be focused on fair housing education and prevention of unfair practices with respect to real estate transactions, facilities, or services as specified in RCW 49.60.222. However, active license renewal applicants who did not complete fair housing and consumer protection training as part of the instruction required by RCW 18.85.101 must complete six hours of the required 30 hours of instruction in subsection (1) of this section focused on fair housing education and prevention of unfair practices with respect to real estate transactions, facilities, or services as specified in RCW 49.60.222 only for the renewal cycle immediately following June 1, 2022.

(3) The department shall provide more specific training concepts within fair housing education by the requirements specified in subsection (2) of this section with the input of associations that represent real estate brokers and agents, the Washington state commission on African American affairs, the Washington state commission on Hispanic affairs, the governor's office of Indian affairs, the Washington state commission on Asian Pacific American affairs, the Washington state human rights commission, the governor's committee on disability issues and employment, the Washington state LGBTQ commission, and the Washington state housing finance commission.

Sec. 2. RCW 18.85.101 and 2008 c 23 s 11 are each amended to read as follows:

(1) The minimum requirements for an individual to receive a broker's license are that the individual:

- (a) Is (~~(eighteen)~~) 18 years of age or older;
- (b) Has a high school diploma or its equivalent;

(c) Except as provided in RCW 18.85.141, has furnished proof, as the director may require, that the applicant has successfully completed (~~(ninety)~~) 90 hours of instruction in real estate. Instruction must include courses as prescribed by the director including fundamentals, which shall include three hours of

instruction on fair housing and consumer protection issues, and practices. Each course must be completed within two years before applying for the broker's license examination and be approved by the director. The applicant must pass a course examination, approved by the director for each course used to satisfy the broker's license requirement; and

(d) Has passed the broker's license examination.

(2) The broker's license may be renewed upon completion of continuing education courses and payment of the renewal fee as prescribed by the director. The education requirements for the first renewal of the broker's license must include (~~ninety~~) 90 hours of courses as prescribed by the director, including real estate law, which shall include three hours of instruction on fair housing and consumer protection issues, advance practices, and continuing education.

(3) The broker is licensed to one firm at a time and is supervised by a designated or managing broker.

NEW SECTION, Sec. 3. This act takes effect June 1, 2022.

Passed by the Senate April 15, 2021.

Passed by the House April 10, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 289

[Substitute Senate Bill 5381]

FISH PASSAGE PROJECT PERMITS—STREAMLINED REVIEW AND APPROVAL

AN ACT Relating to fish passage project permit streamlining; and amending RCW 77.55.181, 90.58.147, and 47.85.020.

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

Sec. 1. RCW 77.55.181 and 2020 c 166 s 1 are each amended to read as follows:

(1)(a) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under this section and must be a project to accomplish one or more of the following tasks:

(i) Elimination of human-made or caused fish passage barriers, including:

(A) Culvert repair and replacement; and

(B) Fish passage barrier removal projects that comply with the forest practices rules, as the term "forest practices rules" is defined in RCW 76.09.020;

(ii) Restoration of an eroded or unstable stream bank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water;

(iii) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks; or

(iv) Restoration of native kelp and eelgrass beds and restoring native oysters.

(b) The department shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if

the department determines that the scale of the project raises concerns regarding public health and safety.

(c) A fish habitat enhancement project must be approved in one of the following ways in order to receive the permit review and approval process created in this section:

(i) By the department pursuant to chapter 77.95 or 77.100 RCW;

(ii) By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;

(iii) By the department as a department-sponsored fish habitat enhancement or restoration project;

(iv) Through the review and approval process for the jobs for the environment program;

(v) By conservation districts as conservation district-sponsored fish habitat enhancement or restoration projects;

(vi) Through a formal grant program established by the legislature or the department for fish habitat enhancement or restoration;

(vii) By federally recognized tribes as tribally sponsored fish habitat enhancement projects or restoration projects;

(viii) Through the department of transportation's environmental retrofit program as a stand-alone fish passage barrier correction project, or the fish passage barrier correction portion of a larger transportation project;

~~((viii))~~ (ix) Through a local, state, or federally approved fish barrier removal grant program designed to assist local governments in implementing stand-alone fish passage barrier corrections;

~~((ix))~~ (x) By a city or county for a stand-alone fish passage barrier correction project funded by the city or county;

~~((x))~~ (xi) Through the approval process established for forest practices hydraulic projects in chapter 76.09 RCW; or

~~((xi))~~ (xii) Through other formal review and approval processes established by the legislature.

(2) Fish habitat enhancement projects meeting the criteria of subsection (1) of this section are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of subsection (1) of this section and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030(2)(c).

(3)(a) A permit is required for projects that meet the criteria of subsection (1) of this section and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. The department of transportation shall use the department's online permit application system or a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department and to each appropriate local government. Applicants for a forest practices hydraulic project that are not otherwise required to submit a joint aquatic resource permit application must submit a copy of their forest practices application to the appropriate local government on the same day that they submit the forest practices application to the department of natural resources.

(b) Local governments shall accept the application identified in this section as notice of the proposed project. A local government shall be provided with a ~~((fifteen day))~~ 15-day comment period during which it may transmit comments regarding environmental impacts to the department or, for forest practices hydraulic projects, to the department of natural resources.

(c)(i) Except for forest practices hydraulic projects, the department shall, within 45 days, either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project ~~((within forty-five days))~~. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. Permitting decisions over forest practices hydraulic approvals must be made consistent with chapter 76.09 RCW.

(ii) For department of transportation fish passage barrier correction projects, the department of fish and wildlife shall, within 30 days, either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project.

(d) If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

(e) Any person aggrieved by the approval, denial, conditioning, or modification of a permit other than a forest practices hydraulic project under this section may appeal the decision as provided in RCW 77.55.021(8). Appeals of a forest practices hydraulic project may be made as provided in chapter 76.09 RCW.

(4) No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of subsection (1) of this section and that are reviewed and approved according to the provisions of this section, except that, pursuant to chapter 86.16 RCW, a local government may impose such requirements, or charge such fees, or both, only as may be necessary in order for the local government to administer the national flood insurance program regulation requirements.

(5) No civil liability may be imposed by any court on the state or its officers and employees for any adverse impacts resulting from a fish enhancement project permitted by the department or the department of natural resources under the criteria of this section except upon proof of gross negligence or willful or wanton misconduct.

Sec. 2. RCW 90.58.147 and 2019 c 150 s 2 are each amended to read as follows:

(1) A public or private project that is designed to improve fish or wildlife habitat or fish passage shall be exempt from the substantial development permit requirements of this chapter when all of the following apply:

(a) The project has been approved by the department of fish and wildlife or, for forest practices hydraulic projects within the scope of RCW 77.55.181, the department of natural resources if the local government notification provisions of RCW 77.55.181 are satisfied;

(b) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW or approval of a forest practices hydraulic project within the scope of RCW 77.55.181 from the department of natural resources if the local government notification provisions of RCW 77.55.181 are satisfied; and

(c) The local government has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

(2) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline master programs.

(3) Public projects for the primary purpose of fish passage improvement or fish passage barrier removal are exempt from the substantial development permit requirements of this chapter.

Sec. 3. RCW 47.85.020 and 2015 3rd sp.s. c 17 s 3 are each amended to read as follows:

The department must streamline the permitting process by developing and maintaining positive relationships with the regulatory agencies and the Indian tribes. The department can reduce the time it takes to obtain permits by incorporating impact avoidance and minimization measures into project design and by developing complete permit applications. To streamline the permitting process, the department must:

(1) Implement a multiagency permit program, commensurate with program funding levels, consisting of appropriate regulatory agency staff with oversight and management from the department.

(a) The multiagency permit program must provide early project coordination, expedited project review, project status updates, technical and regulatory guidance, and construction support to ensure compliance.

(b) The multiagency permit program staff must assist department project teams with developing complete biological assessments and permit applications, provide suggestions for how the project can avoid and minimize impacts, and provide input regarding mitigation for unavoidable impacts;

(2) Establish, implement, and maintain programmatic agreements and permits with federal and state agencies to expedite the process of ensuring compliance with the endangered species act, section 106 of the national historic preservation act, hydraulic project approvals, the clean water act, and other federal acts as appropriate;

(3) Collaborate with permitting staff from the United States army corps of engineers, Seattle district, department of ecology, and department of fish and wildlife to develop, implement, and maintain complete permit application guidance. The guidance must identify the information that is required for agencies to consider a permit application complete; ~~((and))~~

(4) Perform internal quality assurance and quality control to ensure that permit applications are complete before submitting them to the regulatory agencies; and

(5) Implement a multiagency effort, in coordination with the department of ecology and the department of fish and wildlife, and work with the relevant federal environmental permitting agencies to streamline the acquisition of

commonly needed environmental permits and approvals for department of transportation fish passage barrier correction projects. Expected results include developing programmatic permit options that simplify the application process, reduce paperwork, and reduce the amount of time and cost it takes to acquire these permits and approvals.

Passed by the Senate April 15, 2021.

Passed by the House April 6, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 290

[Engrossed Substitute Senate Bill 5408]

HOMESTEAD EXEMPTION—VARIOUS PROVISIONS

AN ACT Relating to the homestead exemption; amending RCW 6.13.010, 6.13.030, 6.13.060, 6.13.070, 6.13.080, and 6.1.24.100; 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 that the homestead exemption is intended to protect the homeowner's equity in a home against unsecured creditors. The legislature finds that changes to the homestead exemption are necessary to modernize the law and to address the case of *Wilson v. Rigby*, 909 F.3d 306 (2018) and to adopt the reasoning in *In re Good*, 588 B.R. 573 (Bankr. W.D. Wash. 2018).

Sec. 2. RCW 6.13.010 and 1999 c 403 s 1 are each amended to read as follows:

(1) The homestead consists of real or personal property that the owner or a dependent of the owner uses as a residence. In the case of a dwelling house or mobile home, the homestead consists of the dwelling house or the mobile home in which the owner resides or intends to reside, with appurtenant buildings, and the land on which the same are situated and by which the same are surrounded, or improved or unimproved land, regardless of area, owned with the intention of placing a house or mobile home thereon and residing thereon. A mobile home may be exempted under this chapter whether or not it is permanently affixed to the underlying land and whether or not the mobile home is placed upon a lot owned by the mobile home owner or a dependent of the owner. Property included in the homestead must be actually intended or used as the principal home for the owner.

(2) As used in this chapter (~~(, the term "owner"~~);

(a) "Owner" includes but is not limited to a purchaser under a deed of trust, mortgage, or real estate contract.

~~((3) As used in this chapter, the term "net")~~ (b) "Net value" means market value less all liens and encumbrances senior to the judgment being executed upon and not including the judgment being executed upon.

(c) "Forced sale" includes any sale of homestead property in a bankruptcy proceeding under Title 11 of the United States Code. The reinvestment provisions of RCW 6.13.070 do not apply to the proceeds.

(d) "Dependent" has the meaning given in Title 11 U.S.C. Sec. 522(a)(1).

Sec. 3. RCW 6.13.030 and 2007 c 429 s 1 are each amended to read as follows:

~~((A homestead may consist of lands, as described in RCW 6.13.010, regardless of area, but the homestead exemption amount shall not exceed the lesser of (1) the total net value of the lands, manufactured homes, mobile home, improvements, and other personal property, as described in RCW 6.13.010, or (2) the sum of one hundred twenty five thousand dollars in the case of lands, manufactured homes, mobile home, and improvements, or the sum of fifteen thousand dollars in the case of other personal property described in RCW 6.13.010, except where)) (1) The homestead exemption amount is the greater of:~~

~~(a) \$125,000;~~

~~(b) The county median sale price of a single-family home in the preceding calendar year; or~~

~~(c) Where the homestead is subject to execution, attachment, or seizure by or under any legal process whatever to satisfy a judgment in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, ((in which event there shall be)) no dollar limit ((on the value of the exemption)).~~

(2) In determining the county median sale price of a single-family home in the preceding year, a court shall use data from the Washington center for real estate research or, if the Washington center no longer provides the data, a successor entity designated by the office of financial management.

Sec. 4. RCW 6.13.060 and 2008 c 6 s 634 are each amended to read as follows:

The homestead of a spouse or domestic partner cannot be conveyed or encumbered unless the instrument by which it is conveyed or encumbered is executed and acknowledged by both spouses or both domestic partners, except that either spouse or both or either domestic partner or both jointly may make and execute powers of attorney for the conveyance or encumbrance of the homestead. The conveyance or encumbrance of the homestead does not require that any dependent of the owner who is not a spouse or domestic partner execute and acknowledge the instrument by which it is conveyed or encumbered.

Sec. 5. RCW 6.13.070 and 1987 c 442 s 207 are each amended to read as follows:

(1) Except as provided in RCW 6.13.080, the homestead is exempt from attachment and from execution or forced sale for the debts of the owner up to the amount specified in RCW 6.13.030.

(2) In a bankruptcy case, the debtor's exemption shall be determined on the date the bankruptcy petition is filed. If the value of the debtor's interest in homestead property on the petition date is less than or equal to the amount that can be exempted under RCW 6.13.030, then the debtor's entire interest in the property, including the debtor's right to possession and interests of no monetary value, is exempt. Any appreciation in the value of the debtor's exempt interest in the property during the bankruptcy case is also exempt, even if in excess of the amounts in RCW 6.13.030(1).

(3) The proceeds of the voluntary sale of the homestead in good faith for the purpose of acquiring a new homestead, and proceeds from insurance covering destruction of homestead property held for use in restoring or replacing the

homestead property, up to the amount specified in RCW 6.13.030, shall likewise be exempt for one year from receipt, and also such new homestead acquired with such proceeds.

~~((2))~~ (4) Every homestead created under this chapter is presumed to be valid to the extent of all the property claimed exempt, until the validity thereof is contested in a court of general jurisdiction in the county or district in which the homestead is situated.

Sec. 6. RCW 6.13.080 and 2019 c 238 s 215 are each amended to read as follows:

The homestead exemption is not available against an execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, construction, maritime, automobile repair, material supplier's, or vendor's liens arising out of and against the particular property claimed as a homestead;

(2) On debts secured:

(a) ~~((by))~~ By security agreements describing as collateral the property that is claimed as a homestead; or

(b) ~~((by))~~ By mortgages or deeds of trust on the premises that have been executed and acknowledged by both spouses or both domestic partners or by any claimant not married or in a state registered domestic partnership. The execution and acknowledgment of a mortgage or deed of trust by a dependent who is not a spouse or domestic partner is not required;

(3) On one spouse's or one domestic partner's or the community's debts existing at the time of that spouse's or that domestic partner's bankruptcy filing where (a) bankruptcy is filed by both spouses or both domestic partners within a six-month period, other than in a joint case or a case in which their assets are jointly administered, and (b) the other spouse or other domestic partner exempts property from property of the estate under the bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay maintenance;

(5) On debts owing to the state of Washington for recovery of medical assistance correctly paid on behalf of an individual consistent with 42 U.S.C. Sec. 1396p;

(6) On debts secured by a condominium, homeowners', or common interest community association's lien; or

(7) On debts owed for taxes collected under chapters 82.08, 82.12, and 82.14 RCW but not remitted to the department of revenue.

Sec. 7. RCW 61.24.100 and 1998 c 295 s 12 are each amended to read as follows:

(1) Except to the extent permitted in this section for deeds of trust securing commercial loans, a deficiency judgment shall not be obtained on the obligations secured by a deed of trust against any borrower, grantor, or guarantor after a trustee's sale under that deed of trust.

(2)(a) Nothing in this chapter precludes an action against any person liable on the obligations secured by a deed of trust or any guarantor prior to a notice of trustee's sale being given pursuant to this chapter or after the discontinuance of the trustee's sale.

(b) No action under (a) of this subsection precludes the beneficiary from commencing a judicial foreclosure or trustee's sale under the deed of trust after the completion or dismissal of that action.

(3) This chapter does not preclude any one or more of the following after a trustee's sale under a deed of trust securing a commercial loan executed after June 11, 1998:

(a)(i) To the extent the fair value of the property sold at the trustee's sale to the beneficiary or an affiliate of the beneficiary is less than the unpaid obligation secured by the deed of trust immediately prior to the trustee's sale, an action for a deficiency judgment against the borrower or grantor, if such person or persons was timely given the notices under RCW 61.24.040, for (A) any decrease in the fair value of the property caused by waste to the property committed by the borrower or grantor, respectively, after the deed of trust is granted, and (B) the wrongful retention of any rents, insurance proceeds, or condemnation awards by the borrower or grantor, respectively, that are otherwise owed to the beneficiary.

(ii) This subsection (3)(a) does not apply to any property that is occupied by the borrower as its principal residence as of the date of the trustee's sale;

(b) Any judicial or nonjudicial foreclosures of any other deeds of trust, mortgages, security agreements, or other security interests or liens covering any real or personal property granted to secure the obligation that was secured by the deed of trust foreclosed; or

(c) Subject to this section, an action for a deficiency judgment against a guarantor if the guarantor is timely given the notices under RCW 61.24.042.

(4) Any action referred to in subsection (3)(a) and (c) of this section shall be commenced within one year after the date of the trustee's sale, or a later date to which the liable party otherwise agrees in writing with the beneficiary after the notice of foreclosure is given, plus any period during which the action is prohibited by a bankruptcy, insolvency, moratorium, or other similar debtor protection statute. If there occurs more than one trustee's sale under a deed of trust securing a commercial loan or if trustee's sales are made pursuant to two or more deeds of trust securing the same commercial loan, the one-year limitation in this section begins on the date of the last of those trustee's sales.

(5) In any action against a guarantor following a trustee's sale under a deed of trust securing a commercial loan, the guarantor may request the court or other appropriate adjudicator to determine, or the court or other appropriate adjudicator may in its discretion determine, the fair value of the property sold at the sale and the deficiency judgment against the guarantor shall be for an amount equal to the sum of the total amount owed to the beneficiary by the guarantor as of the date of the trustee's sale, less the fair value of the property sold at the trustee's sale or the sale price paid at the trustee's sale, whichever is greater, plus interest on the amount of the deficiency from the date of the trustee's sale at the rate provided in the guaranty, the deed of trust, or in any other contracts evidencing the debt secured by the deed of trust, as applicable, and any costs, expenses, and fees that are provided for in any contract evidencing the guarantor's liability for such a judgment. If any other security is sold to satisfy the same debt prior to the entry of a deficiency judgment against the guarantor, the fair value of that security, as calculated in the manner applicable to the property sold at the trustee's sale, shall be added to the fair value of the property sold at the trustee's sale as of the date that additional security is foreclosed. This

section is in lieu of any right any guarantor would otherwise have to establish an upset price pursuant to RCW 61.12.060 prior to a trustee's sale.

(6) A guarantor granting a deed of trust to secure its guaranty of a commercial loan shall be subject to a deficiency judgment following a trustee's sale under that deed of trust only to the extent stated in subsection (3)(a)(i) of this section. If the deed of trust encumbers the guarantor's principal residence, the guarantor shall be entitled to receive an amount up to ~~((the homestead exemption set forth in RCW 6.13.030))~~ \$125,000, without regard to the effect of RCW 6.13.080(2), from the bid at the foreclosure or trustee's sale accepted by the sheriff or trustee prior to the application of the bid to the guarantor's obligation.

(7) A beneficiary's acceptance of a deed in lieu of a trustee's sale under a deed of trust securing a commercial loan exonerates the guarantor from any liability for the debt secured thereby except to the extent the guarantor otherwise agrees as part of the deed in lieu transaction.

(8) This chapter does not preclude a beneficiary from foreclosing a deed of trust in the same manner as a real property mortgage and this section does not apply to such a foreclosure.

(9) Any contract, note, deed of trust, or guaranty may, by its express language, prohibit the recovery of any portion or all of a deficiency after the property encumbered by the deed of trust securing a commercial loan is sold at a trustee's sale.

(10) A trustee's sale under a deed of trust securing a commercial loan does not preclude an action to collect or enforce any obligation of a borrower or guarantor if that obligation, or the substantial equivalent of that obligation, was not secured by the deed of trust.

(11) Unless the guarantor otherwise agrees, a trustee's sale shall not impair any right or agreement of a guarantor to be reimbursed by a borrower or grantor for a deficiency judgment against the guarantor.

(12) Notwithstanding anything in this section to the contrary, the rights and obligations of any borrower, grantor, and guarantor following a trustee's sale under a deed of trust securing a commercial loan or any guaranty of such a loan executed prior to June 11, 1998, shall be determined in accordance with the laws existing prior to June 11, 1998.

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

Passed by the Senate April 19, 2021.

Passed by the House April 16, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 291

[Engrossed Substitute Senate Bill 5432]

OFFICE OF CYBERSECURITY

AN ACT Relating to cybersecurity in state government; amending RCW 43.105.054; adding new sections to chapter 43.105 RCW; adding a new section to chapter 39.26 RCW; adding a new

section to chapter 39.34 RCW; adding a new section to chapter 42.56 RCW; creating new sections; repealing RCW 43.105.215; 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 43.105 RCW to read as follows:

(1) The office of cybersecurity is created within the office of the chief information officer.

(2) The director shall appoint a state chief information security officer, who is the director of the office of cybersecurity.

(3) The primary duties of the office of cybersecurity are:

(a) To establish security standards and policies to protect the state's information technology systems and infrastructure, to provide appropriate governance and application of the standards and policies across information technology resources used by the state, and to ensure the confidentiality, availability, and integrity of the information transacted, stored, or processed in the state's information technology systems and infrastructure;

(b) To develop a centralized cybersecurity protocol for protecting and managing state information technology assets and infrastructure;

(c) To detect and respond to security incidents consistent with information security standards and policies;

(d) To create a model incident response plan for agency adoption, with the office of cybersecurity as the incident response coordinator for incidents that: (i) Impact multiple agencies; (ii) impact more than 10,000 citizens; (iii) involve a nation state actor; or (iv) are likely to be in the public domain;

(e) To ensure the continuity of state business and information resources that support the operations and assets of state agencies in the event of a security incident;

(f) To provide formal guidance to agencies on leading practices and applicable standards to ensure a whole government approach to cybersecurity, which shall include, but not be limited to, guidance regarding: (i) The configuration and architecture of agencies' information technology systems, infrastructure, and assets; (ii) governance, compliance, and oversight; and (iii) incident investigation and response;

(g) To serve as a resource for local and municipal governments in Washington in the area of cybersecurity;

(h) To develop a service catalog of cybersecurity services to be offered to state and local governments;

(i) To collaborate with state agencies in developing standards, functions, and services in order to ensure state agency regulatory environments are understood and considered as part of an enterprise cybersecurity response;

(j) To define core services that must be managed by agency information technology security programs; and

(k) To perform all other matters and things necessary to carry out the purposes of this chapter.

(4) In performing its duties, the office of cybersecurity must address the highest levels of security required to protect confidential information transacted, stored, or processed in the state's information technology systems and infrastructure that is specifically protected from disclosure by state or federal law and for which strict handling requirements are required.

(5) In executing its duties under subsection (3) of this section, the office of cybersecurity shall use or rely upon existing, industry standard, widely adopted cybersecurity standards, with a preference for United States federal standards.

(6) Each state agency, institution of higher education, the legislature, and the judiciary must develop an information technology security program consistent with the office of cybersecurity's standards and policies.

(7)(a) Each state agency information technology security program must adhere to the office of cybersecurity's security standards and policies. Each state agency must review and update its program annually, certify to the office of cybersecurity that its program is in compliance with the office of cybersecurity's security standards and policies, and provide the office of cybersecurity with a list of the agency's cybersecurity business needs and agency program metrics.

(b) The office of cybersecurity shall require a state agency to obtain an independent compliance audit of its information technology security program and controls at least once every three years to determine whether the state agency's information technology security program is in compliance with the standards and policies established by the agency and that security controls identified by the state agency in its security program are operating efficiently.

(c) If a review or an audit conducted under (a) or (b) of this subsection identifies any failure to comply with the standards and policies of the office of cybersecurity or any other material cybersecurity risk, the office of cybersecurity must require the state agency to formulate and implement a plan to resolve the failure or risk. On an annual basis, the office of cybersecurity must provide a confidential report to the governor and appropriate committees of the legislature identifying and describing the cybersecurity risk or failure to comply with the office of cybersecurity's security policy or implementing cybersecurity standards and policies, as well as the agency's plan to resolve such failure or risk. Risks that are not mitigated are to be tracked by the office of cybersecurity and reviewed with the governor and the chair and ranking member of the appropriate committees of the legislature on a quarterly basis.

(d) The reports produced, and information compiled, pursuant to this subsection (7) are confidential and may not be disclosed under chapter 42.56 RCW.

(8) In the case of institutions of higher education, the judiciary, and the legislature, each information technology security program must be comparable to the intended outcomes of the office of cybersecurity's security standards and policies.

NEW SECTION. Sec. 2. A new section is added to chapter 43.105 RCW to read as follows:

(1) By July 1, 2022, the office of cybersecurity, in collaboration with state agencies, shall develop a catalog of cybersecurity services and functions for the office of cybersecurity to perform and submit a report to the legislature and governor. The report must include, but not be limited to:

(a) Cybersecurity services and functions to include in the office of cybersecurity's catalog of services that should be performed by the office of cybersecurity;

(b) Core capabilities and competencies of the office of cybersecurity;

(c) Security functions which should remain within agency information technology security programs;

(d) A recommended model for accountability of agency security programs to the office of cybersecurity; and

(e) The cybersecurity services and functions required to protect confidential information transacted, stored, or processed in the state's information technology systems and infrastructure that is specifically protected from disclosure by state or federal law and for which strict handling requirements are required.

(2) The office of cybersecurity shall update and publish its catalog of services and performance metrics on a biennial basis. The office of cybersecurity shall use data and information provided from agency security programs to inform the updates to its catalog of services and performance metrics.

(3) To ensure alignment with enterprise information technology security strategy, the office of cybersecurity shall develop a process for reviewing and evaluating agency proposals for additional cybersecurity services consistent with RCW 43.105.255.

NEW SECTION. Sec. 3. A new section is added to chapter 43.105 RCW to read as follows:

(1) In the event of a major cybersecurity incident, as defined in policy established by the office of cybersecurity in accordance with section 1 of this act, state agencies must report that incident to the office of cybersecurity within 24 hours of discovery of the incident.

(2) State agencies must provide the office of cybersecurity with contact information for any external parties who may have material information related to the cybersecurity incident.

(3) Once a cybersecurity incident is reported to the office of cybersecurity, the office of cybersecurity must investigate the incident to determine the degree of severity and facilitate any necessary incident response measures that need to be taken to protect the enterprise.

(4) The chief information security officer or the chief information security officer's designee shall serve as the state's point of contact for all major cybersecurity incidents.

(5) The office of cybersecurity must create policy to implement this section.

NEW SECTION. Sec. 4. (1) The office of cybersecurity, in collaboration with the office of privacy and data protection and the office of the attorney general, shall research and examine existing best practices for data governance, data protection, the sharing of data relating to cybersecurity, and the protection of state and local governments' information technology systems and infrastructure including, but not limited to, model terms for data-sharing contracts and adherence to privacy principles.

(2) The office of cybersecurity must submit a report of its findings and identify specific recommendations to the governor and the appropriate committees of the legislature by December 1, 2021.

(3) This section expires December 31, 2021.

NEW SECTION. Sec. 5. A new section is added to chapter 39.26 RCW to read as follows:

(1) Before an agency shares with a contractor category 3 or higher data, as defined in policy established in accordance with RCW 43.105.054, a written data-sharing agreement must be in place. Such agreements shall conform to the

policies for data sharing specified by the office of cybersecurity under the authority of RCW 43.105.054.

(2) Nothing in this section shall be construed as limiting audit authorities under chapter 43.09 RCW.

NEW SECTION. Sec. 6. A new section is added to chapter 39.34 RCW to read as follows:

(1) If a public agency is requesting from another public agency category 3 or higher data, as defined in policy established in accordance with RCW 43.105.054, the requesting agency shall provide for a written agreement between the agencies that conforms to the policies of the office of cybersecurity.

(2) Nothing in this section shall be construed as limiting audit authorities under chapter 43.09 RCW.

NEW SECTION. Sec. 7. (1) The office of cybersecurity shall contract for an independent security assessment of the state agency information technology security program audits, required under section 1 of this act, that have been conducted since July 1, 2015. The independent assessment must be conducted in accordance with subsection (2) of this section. To the greatest extent practicable, the office of cybersecurity must contract for the independent security assessment using a department of enterprise services master contract or the competitive solicitation process described under chapter 39.26 RCW. If the office of cybersecurity conducts a competitive solicitation, the office of cybersecurity shall work with the department of enterprise services, office of minority and women's business enterprises, and the department of veterans affairs to engage in outreach to Washington small businesses, as defined in RCW 39.26.010, and certified veteran-owned businesses, as described in RCW 43.60A.190, and encourage these entities to submit a bid.

(2) The assessment must, at a minimum:

(a) Review the state agency information technology security program audits, required under section 1 of this act, performed since July 1, 2015;

(b) Assess the content of any audit findings and evaluate the findings relative to industry standards at the time of the audit;

(c) Evaluate the state's performance in taking action upon audit findings and implementing recommendations from the audit;

(d) Evaluate the policies and standards established by the office of cybersecurity pursuant to section 1 of this act and provide recommendations for ways to improve the policies and standards; and

(e) Include recommendations, based on best practices, for both short-term and long-term programs and strategies designed to implement audit findings.

(3) A report detailing the elements of the assessment described under subsection (2) of this section must be submitted to the governor and appropriate committees of the legislature by August 31, 2022. The report is confidential and may not be disclosed under chapter 42.56 RCW.

NEW SECTION. Sec. 8. A new section is added to chapter 42.56 RCW to read as follows:

The reports and information compiled pursuant to sections 1 and 7 of this act are confidential and may not be disclosed under this chapter.

Sec. 9. RCW 43.105.054 and 2016 c 237 s 3 are each amended to read as follows:

(1) The director shall establish standards and policies to govern information technology in the state of Washington.

(2) The office shall have the following powers and duties related to information services:

(a) To develop statewide standards and policies governing the:

(i) Acquisition of equipment, software, and technology-related services;

(ii) Disposition of equipment;

(iii) Licensing of the radio spectrum by or on behalf of state agencies; and

(iv) Confidentiality of computerized data;

(b) To develop statewide and interagency technical policies, standards, and procedures;

(c) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services;

(d) With input from the legislature and the judiciary, to provide direction concerning strategic planning goals and objectives for the state;

(e) To establish policies for the periodic review by the director of state agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education;

(iii) Project management; and

(iv) Cybersecurity, in coordination with the office of cybersecurity;

(f) To coordinate with state agencies with an annual information technology expenditure that exceeds ten million dollars to implement a technology business management program to identify opportunities for savings and efficiencies in information technology expenditures and to monitor ongoing financial performance of technology investments;

(g) In conjunction with the consolidated technology services agency, to develop statewide standards for agency purchases of technology networking equipment and services;

(h) To implement a process for detecting, reporting, and responding to security incidents consistent with the information security standards, policies, and guidelines adopted by the director;

(i) To develop plans and procedures to ensure the continuity of commerce for information resources that support the operations and assets of state agencies in the event of a security incident; and

(j) To work with the office of cybersecurity, department of commerce, and other economic development stakeholders to facilitate the development of a strategy that includes key local, state, and federal assets that will create Washington as a national leader in cybersecurity. The office shall collaborate with, including but not limited to, community colleges, universities, the national guard, the department of defense, the department of energy, and national laboratories to develop the strategy.

(3) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The office shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems; and

(b) Require agencies to include an evaluation of electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the office is encouraged to include the state library, state archives, and appropriate representatives of state and local government.

NEW SECTION. Sec. 10. RCW 43.105.215 (Security standards and policies—State agencies' information technology security programs) and 2015 3rd sp.s. c 1 s 202 & 2013 2nd sp.s. c 33 s 8 are each repealed.

Passed by the Senate April 15, 2021.

Passed by the House April 6, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 292

[Engrossed Substitute Senate Bill 5478]

UNEMPLOYMENT INSURANCE—FORGIVEN BENEFITS—RELIEF ACCOUNT

AN ACT Relating to unemployment insurance relief for certain employers; adding a new section to chapter 50.16 RCW; adding new sections to chapter 50.29 RCW; creating new sections; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The legislature finds that certain businesses in Washington have experienced significant and unanticipated impacts during the COVID-19 pandemic. The legislature intends to preemptively minimize the disproportionate impact COVID-19 economic closures have had on these businesses.

(2) Small businesses in particular have fewer reserves and fewer resources to rely upon in periods of downturn. Those businesses owned by historically disadvantaged groups, such as women, minority populations, and immigrants, often experience disproportionately more distress and burden due to the economic impacts of the COVID-19 pandemic compared to their counterparts across the remaining business community. These businesses are absolutely critical to the success of Washington's continued high ratings, number one gross domestic product, and are part of the backbone of Washington's diverse and resilient economy.

(3) The legislature finds that ESSB 5061, passed by the legislature and signed by the governor earlier in the 2021 session, mitigated immediate impacts to employers through caps on the social tax, suspension of the solvency surcharge, and relief of certain benefit charges.

(4) The legislature now intends to address the disproportionate impacts on small and other significantly impacted businesses beyond the limited time period addressed in ESSB 5061. The legislature intends to provide this targeted relief through the one-time application of funds, in order to provide critical support for many of the businesses that are essential to Washington's recovery and ongoing

economic vitality, while maintaining a healthy unemployment insurance trust fund for Washington's workers.

NEW SECTION. Sec. 2. A new section is added to chapter 50.16 RCW to read as follows:

(1) The unemployment insurance relief 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 commissioner of the employment security department or the commissioner's designee may authorize expenditures from the account. Expenditures from the account may be used only for reimbursing the unemployment compensation fund created in RCW 50.16.010 for forgiven benefits for COVID-19 impacted businesses pursuant to sections 3, 4, 5, 6, 7, 8, and 9 of this act. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) By July 1, 2022, the commissioner must certify to the state treasurer the amount of any unobligated moneys in the unemployment insurance relief account that were appropriated by the legislature from the general fund during the 2021-2023 fiscal biennium, and the treasurer must transfer those moneys back to the general fund.

NEW SECTION. Sec. 3. A new section is added to chapter 50.29 RCW to read as follows:

(1) By December 20, 2021, the department must determine the forgiven benefits for approved category 1 employers to be reimbursed by the unemployment insurance relief account instead of charged to the employer's experience rating account. Total forgiven benefits for all approved category 1 employers may not exceed the available benefits for category 1.

(2) The department will not charge the forgiven benefits to the employer's experience rating account. The commissioner must instead transfer from the unemployment insurance relief account to the unemployment compensation fund created in RCW 50.16.010 an amount equal to the forgiven benefits.

(3) For the purposes of this section, the following definitions apply:

(a) "Approved benefits" means benefits paid to employees of an approved category 1 employer during the fiscal year ending June 30, 2021, not to exceed an amount that would reduce the employer's rate class increase to no more than a two rate class increase. Approved benefits must not include benefits that were not charged to the employer's experience rating account or benefits otherwise relieved under RCW 50.29.021.

(b) "Approved category 1 employer" means a contribution paying employer:

(i) With 20 or fewer employees in the state as reported on the employer's fourth quarter report to the department for 2020;

(ii) Whose experience rating under RCW 50.29.025(1)(a)(ii) has increased by three or more rate classes from rate year 2021 to rate year 2022; and

(iii) Whose North American industry classification system code for rate year 2021 is within "323," "331," "448," "451," "453," "481," "485," "487," "512," "711," "712," "713," "721," "722," "812," and "814."

(c) "Available benefits for category 1" means \$100,000,000 of the total amount of money in the unemployment insurance relief account.

(d) "Forgiven benefits" means the approved benefits for an individual employer multiplied by the forgiveness ratio.

(e) "Forgiveness ratio" is computed by dividing the available benefits for category 1 by the total approved benefits. The forgiveness ratio cannot be more than one.

(f) "Total approved benefits" means the sum total of all approved benefits.

(4) The department must adopt such rules as are necessary to carry out the purposes of this section.

(5) This section expires July 30, 2022.

NEW SECTION. Sec. 4. A new section is added to chapter 50.29 RCW to read as follows:

(1) By December 20, 2021, the department must determine the forgiven benefits for approved category 2 employers to be reimbursed by the unemployment insurance relief account instead of charged to the employer's experience rating account. Total forgiven benefits for all approved category 2 employers may not exceed the available benefits for category 2.

(2) The department will not charge the forgiven benefits to the employer's experience rating account. The commissioner must instead transfer from the unemployment insurance relief account to the unemployment compensation fund created in RCW 50.16.010 an amount equal to the forgiven benefits.

(3) For the purposes of this section, the following definitions apply:

(a) "Approved benefits" means benefits paid to employees of an approved category 2 employer during the fiscal year ending June 30, 2021, not to exceed an amount that would reduce the employer's rate class increase to no more than a two rate class increase. Approved benefits must not include benefits that were not charged to the employer's experience rating account or benefits otherwise relieved under RCW 50.29.021.

(b) "Approved category 2 employer" means a contribution paying employer:

(i) Whose experience rating under RCW 50.29.025(1)(a)(ii) has increased by three or more rate classes from rate year 2021 to rate year 2022;

(ii) Whose North American industry classification system code for rate year 2021 is within "323," "331," "448," "451," "453," "481," "485," "487," "512," "711," "712," "713," "721," "722," "812," and "814"; and

(iii) Who does not meet the definition of approved category 1 employer under section 3(3) of this act.

(c) "Available benefits for category 2" means the sum total of:

(i) The difference between the available benefits for category 1, as defined in section 3 of this act, and the total forgiven benefits for approved category 1 employers, as defined in section 3 of this act; and

(ii) \$175,000,000 of the total amount of money in the unemployment insurance relief account.

(d) "Forgiven benefits" means the approved benefits for an individual employer multiplied by the forgiveness ratio.

(e) "Forgiveness ratio" is computed by dividing the available benefits for category 2 by the total approved benefits. The forgiveness ratio cannot be more than one.

(f) "Total approved benefits" means the sum total of all approved benefits.

(4) The department must adopt such rules as are necessary to carry out the purposes of this section.

(5) This section expires July 30, 2022.

NEW SECTION. Sec. 5. A new section is added to chapter 50.29 RCW to read as follows:

(1) By December 20, 2021, the department must determine the forgiven benefits for approved category 3 employers to be reimbursed by the unemployment insurance relief account instead of charged to the employer's experience rating account. Total forgiven benefits for all approved category 3 employers may not exceed the available benefits for category 3.

(2) The department will not charge the forgiven benefits to the employer's experience rating account. The commissioner must instead transfer from the unemployment insurance relief account to the unemployment compensation fund created in RCW 50.16.010 an amount equal to the forgiven benefits.

(3) For the purposes of this section, the following definitions apply:

(a) "Approved benefits" means benefits paid to employees of an approved category 3 employer during the fiscal year ending June 30, 2021, not to exceed an amount that would reduce the employer's rate class increase to no more than a three rate class increase. Approved benefits must not include benefits that were not charged to the employer's experience rating account or benefits otherwise relieved under RCW 50.29.021.

(b) "Approved category 3 employer" means a contribution paying employer:

(i) Whose experience rating under RCW 50.29.025(1)(a)(ii) has increased by four or more rate classes from rate year 2021 to rate year 2022;

(ii) With 20 or fewer employees in the state as reported on the employer's fourth quarter report to the department for 2020; and

(iii) Who does not meet the definition of approved category 1 employer under section 3(3) of this act or approved category 2 employer under section 4(3) of this act.

(c) "Available benefits for category 3" means the sum total of:

(i) The difference between the available benefits for category 2, as defined under section 4 of this act, and the total forgiven benefits for approved category 2 employers, as defined under section 4 of this act; and

(ii) \$75,000,000 of the total amount of money in the unemployment insurance relief account.

(d) "Forgiven benefits" means the approved benefits for an individual employer multiplied by the forgiveness ratio.

(e) "Forgiveness ratio" is computed by dividing the available benefits for category 3 by the total approved benefits. The forgiveness ratio cannot be more than one.

(f) "Total approved benefits" means the sum total of all approved benefits.

(4) The department must adopt such rules as are necessary to carry out the purposes of this section.

(5) This section expires July 30, 2022.

NEW SECTION. Sec. 6. A new section is added to chapter 50.29 RCW to read as follows:

(1) By December 20, 2021, the department must determine the forgiven benefits for approved category 4 employers to be reimbursed by the unemployment insurance relief account instead of charged to the employer's

experience rating account. Total forgiven benefits for all approved category 4 employers may not exceed the available benefits for category 4.

(2) The department will not charge the forgiven benefits to the employer's experience rating account. The commissioner must instead transfer from the unemployment insurance relief account to the unemployment compensation fund created in RCW 50.16.010 an amount equal to the forgiven benefits.

(3) For the purposes of this section, the following definitions apply:

(a) "Approved benefits" means benefits paid to employees of an approved category 4 employer during the fiscal year ending June 30, 2021, not to exceed an amount that would reduce the employer's rate class increase to no more than a three rate class increase. Approved benefits must not include benefits that were not charged to the employer's experience rating account or benefits otherwise relieved under RCW 50.29.021.

(b) "Approved category 4 employer" means a contribution paying employer:

(i) Whose experience rating under RCW 50.29.025(1)(a)(ii) has increased by four or more rate classes from rate year 2021 to rate year 2022;

(ii) With at least 21 but fewer than 5,000 employees in the state as reported on the employer's fourth quarter report to the department for 2020; and

(iii) Who does not meet the definition of approved category 1 employer under section 3(3) of this act, approved category 2 employer under section 4(3) of this act, or approved category 3 employer under section 5(3) of this act.

(c) "Available benefits for category 4" means the sum total of:

(i) The difference between the available benefits for category 3, as defined under section 5 of this act, and the total forgiven benefits for approved category 3 employers, as defined under section 5 of this act; and

(ii) \$150,000,000 of the total amount of money in the unemployment insurance relief account.

(d) "Forgiven benefits" means the approved benefits for an individual employer multiplied by the forgiveness ratio.

(e) "Forgiveness ratio" is computed by dividing the available benefits for category 4 by the total approved benefits. The forgiveness ratio cannot be more than one.

(f) "Total approved benefits" means the sum total of all approved benefits.

(4) The department must adopt such rules as are necessary to carry out the purposes of this section.

(5) This section expires July 30, 2022.

NEW SECTION. Sec. 7. A new section is added to chapter 50.29 RCW to read as follows:

(1) If moneys remain in the unemployment insurance relief account after the department determines the forgiven benefits for all approved employers pursuant to sections 3 through 6 of this act, then by December 21, 2021, the department must again determine any forgiven benefits for approved category 1 employers to be reimbursed by the unemployment insurance relief account instead of charged to the employer's experience rating account. Total forgiven benefits for all approved category 1 employers may not exceed the available benefits for category 1.

(2) The department will not charge the forgiven benefits to the employer's experience rating account. The commissioner must instead transfer from the

unemployment insurance relief account to the unemployment compensation fund created in RCW 50.16.010 an amount equal to the forgiven benefits.

(3) For the purposes of this section, the following definitions apply:

(a) "Approved benefits" means any remaining benefits paid to employees of an approved category 1 employer during the fiscal year ending June 30, 2021, that were not previously forgiven under section 3 of this act, not to exceed an amount that would reduce the employer's rate class increase to no more than a two rate class increase. Approved benefits must not include benefits that were not charged to the employer's experience rating account or benefits otherwise relieved under RCW 50.29.021.

(b) "Approved category 1 employer" has the same meaning as defined in section 3 of this act.

(c) "Available benefits for category 1" means the total amount of money remaining in the unemployment insurance relief account after benefits are forgiven according to sections 3 through 6 of this act.

(d) "Forgiven benefits" means the approved benefits for an individual employer multiplied by the forgiveness ratio.

(e) "Forgiveness ratio" is computed by dividing the available benefits for category 1 by the total approved benefits. The forgiveness ratio cannot be more than one.

(f) "Total approved benefits" means the sum total of all approved benefits.

(4) The department must adopt such rules as are necessary to carry out the purposes of this section.

(5) This section expires July 30, 2022.

NEW SECTION. Sec. 8. A new section is added to chapter 50.29 RCW to read as follows:

(1) If moneys remain in the unemployment insurance relief account after the department determines the forgiven benefits for approved category 1 employers pursuant to section 7 of this act, the department must again determine any forgiven benefits for approved category 2 employers to be reimbursed by the unemployment insurance relief account instead of charged to the employer's experience rating account. Total forgiven benefits for all approved category 2 employers may not exceed the available benefits for category 2.

(2) The department will not charge the forgiven benefits to the employer's experience rating account. The commissioner must instead transfer from the unemployment insurance relief account to the unemployment compensation fund created in RCW 50.16.010 an amount equal to the forgiven benefits.

(3) For the purposes of this section, the following definitions apply:

(a) "Approved benefits" means any remaining benefits paid to employees of an approved category 2 employer during the fiscal year ending June 30, 2021, that were not previously forgiven under section 4 of this act, not to exceed an amount that would reduce the employer's rate class increase to no more than a two rate class increase. Approved benefits must not include benefits that were not charged to the employer's experience rating account or benefits otherwise relieved under RCW 50.29.021.

(b) "Approved category 2 employer" has the same meaning as defined in section 4 of this act.

(c) "Available benefits for category 2" means the difference between the available benefits for category 1, as defined in section 7 of this act, and the total

forgiven benefits for approved category 1 employers, as defined in section 7 of this act.

(d) "Forgiven benefits" means the approved benefits for an individual employer multiplied by the forgiveness ratio.

(e) "Forgiveness ratio" is computed by dividing the available benefits for category 2 by the total approved benefits. The forgiveness ratio cannot be more than one.

(f) "Total approved benefits" means the sum total of all approved benefits.

(4) The department must adopt such rules as are necessary to carry out the purposes of this section.

(5) This section expires July 30, 2022.

NEW SECTION, Sec. 9. A new section is added to chapter 50.29 RCW to read as follows:

(1) If moneys remain in the unemployment insurance relief account after the department determines the forgiven benefits for approved category 2 employers pursuant to section 8 of this act, the department must again determine any forgiven benefits for approved category 3 employers to be reimbursed by the unemployment insurance relief account instead of charged to the employer's experience rating account. Total forgiven benefits for all approved category 3 employers may not exceed the available benefits for category 3.

(2) The department will not charge the forgiven benefits to the employer's experience rating account. The commissioner must instead transfer from the unemployment insurance relief account to the unemployment compensation fund created in RCW 50.16.010 an amount equal to the forgiven benefits.

(3) For the purposes of this section, the following definitions apply:

(a) "Approved benefits" means any remaining benefits paid to employees of an approved category 3 employer during the fiscal year ending June 30, 2021, that were not previously forgiven under section 5 of this act, not to exceed an amount that would reduce the employer's rate class increase to no more than a three rate class increase. Approved benefits must not include benefits that were not charged to the employer's experience rating account or benefits otherwise relieved under RCW 50.29.021.

(b) "Approved category 3 employer" has the same meaning as defined in section 5 of this act.

(c) "Available benefits for category 3" means the difference between the available benefits for category 2, as defined under section 8 of this act, and the total forgiven benefits for approved category 2 employers, as defined under section 8 of this act.

(d) "Forgiven benefits" means the approved benefits for an individual employer multiplied by the forgiveness ratio.

(e) "Forgiveness ratio" is computed by dividing the available benefits for category 3 by the total approved benefits. The forgiveness ratio cannot be more than one.

(f) "Total approved benefits" means the sum total of all approved benefits.

(4) The department must adopt such rules as are necessary to carry out the purposes of this section.

(5) This section expires July 30, 2022.

NEW SECTION. Sec. 10. A new section is added to chapter 50.29 RCW to read as follows:

(1) By September 1st of each year, the department must determine which employers have not paid all contributions, penalties, or interest due, and have not entered into a department-approved deferred payment contract, as of that date.

(2) By September 1st of each year, for each employer meeting the criteria in subsection (1) of this section, the department must notify the employer of the availability of deferred payment contracts with the department. The department must provide technical, and culturally and linguistically relevant, assistance as needed to the employer in navigating the process for entering into a department-approved payment contract.

NEW SECTION. Sec. 11. 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 or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 12. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 24, 2021.

Passed by the House April 22, 2021.

Approved by the Governor May 12, 2021.

Filed in Office of Secretary of State May 12, 2021.

CHAPTER 293

[Second Substitute Senate Bill 5383]

PUBLIC UTILITY DISTRICTS—RETAIL TELECOMMUNICATIONS SERVICES— UNSERVED AREAS

AN ACT Relating to authorizing public utility districts and port districts to provide retail telecommunications services in unserved areas under certain conditions; amending RCW 54.16.330, 53.08.370, and 43.330.538; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that the COVID-19 pandemic has made it clear that equitable access to education can only happen with equitable access to reliable broadband. Increasing broadband access to unserved areas of the state is of vital importance to increasing quality of life, broadening educational opportunities, and promoting economic inclusion in the parts of our state that, without broadband access, cannot fully participate in modern society. The legislature further finds that one of the most effective tools to ensure all Washingtonians have an opportunity to equitably access education, the job market, and health care resources is to allow our public utility districts and port districts to provide retail telecommunications services.

Sec. 2. RCW 54.16.330 and 2019 c 365 s 9 are each amended to read as follows:

(1)(a) A public utility district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district's limits for the following purposes:

(i) For the district's internal telecommunications needs;

(ii) For the provision of wholesale telecommunications services ~~((within))~~ as follows:

(A) Within the district and by contract with another public utility district;

(B) Within an area in an adjoining county that is already provided electrical services by the district; or

(C) Within an adjoining county that does not have a public utility district providing electrical or telecommunications services headquartered within the county's boundaries, but only if the district providing telecommunications services is not authorized to provide electrical services((-

~~b) Except as provided in subsection (8) of this section, nothing in this section shall be construed to authorize public utility districts to provide telecommunications services to end users)); or~~

(iii) For the provision of retail telecommunications services as authorized in this section.

(2) A public utility district providing wholesale or retail telecommunications services shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a public utility district offering rates, terms, and conditions to an entity for wholesale or retail telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) A public utility district providing wholesale or retail telecommunications services shall not be required to, but may, establish a separate utility system or function for such purpose. In either case, a public utility district providing wholesale or retail telecommunications services shall separately account for any revenues and expenditures for those services according to standards established by the state auditor pursuant to its authority in chapter 43.09 RCW and consistent with the provisions of this title. Any revenues received from the provision of wholesale or retail telecommunications services must be dedicated to costs incurred to build and maintain any telecommunications facilities constructed, installed, or acquired to provide such services, including payments on debt issued to finance such services, until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance such telecommunications facilities are discharged or retired.

(4) When a public utility district provides wholesale or retail telecommunications services, all telecommunications services rendered to the district for the district's internal telecommunications needs shall be allocated or charged at its true and full value. A public utility district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale or retail telecommunications services.

(5) If a person or entity receiving retail telecommunications services from a public utility district under this section has a complaint regarding the reasonableness of the rates, terms, conditions, or services provided, the person or entity may file a complaint with the district commission.

(6) A public utility district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities.

(7) Except as otherwise specifically provided, a public utility district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a public utility district under this title.

(8)(a) If an internet service provider operating on telecommunications facilities of a public utility district that provides wholesale telecommunications services but does not provide retail telecommunications services, ceases to provide access to the internet to its end-use customers, and no other retail service providers are willing to provide service, the public utility district may provide retail telecommunications services to the end-use customers of the defunct internet service provider in order for end-use customers to maintain access to the internet until a replacement internet service provider is, or providers are, in operation.

(b) Within thirty days of an internet service provider ceasing to provide access to the internet, the public utility district must initiate a process to find a replacement internet service provider or providers to resume providing access to the internet using telecommunications facilities of a public utility district.

(c) For a maximum period of five months, following initiation of the process begun in (b) of this section, or, if earlier than five months, until a replacement internet service provider is, or providers are, in operation, the district commission may establish a rate for providing access to the internet and charge customers to cover expenses necessary to provide access to the internet.

(9) The tax treatment of the retail telecommunications services provided by a public utility district to the end-use customers during the period specified in subsection (8) of this section must be the same as if those retail telecommunications services were provided by the defunct internet service provider.

(10)(a) A public utility district may provide retail telecommunications services to end users in unserved areas.

(b) A public utility district must notify and consult with the governor's statewide broadband office within 30 days of its decision to provide retail telecommunications services to unserved areas. The governor's statewide broadband office must post notices received from a public utility district pursuant to this subsection on its public website.

(c) Any public utility district that intends to provide retail telecommunications services to unserved areas must submit a telecommunications infrastructure and service plan to the governor's statewide broadband office that will be published on the office's website. Submission of plans will enable the governor's statewide broadband office: (i) To better understand infrastructure deployment; (ii) to potentially allocate funding for unserved areas; (iii) to advance the state policy objectives; (iv) to determine

whether the plan aligns with state policy objectives and broadband priorities; (v) to measure progress toward serving those in unserved areas; (vi) to report on the feasibility and sustainability of the project; and (vii) to confirm that the project is within an unserved area. The telecommunications infrastructure and service plans shall include, but not be limited to, the following:

(A) Map and description of how the deployment of proposed broadband infrastructure will achieve at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed and then increases to be consistent with the stated long-term state broadband speed goals for unserved areas;

(B) Project timeline prioritization of unserved areas; and

(C) Description of potential state and federal funding available to provide service to the unserved area.

(d) A public utility district that exercises its authority under (a) of this subsection to provide retail telecommunications services may use state funds, federal funds appropriated through the state, or federal funds dedicated for projects in unserved areas to fund projects identified in the submitted telecommunications infrastructure and service plan required in (c) of this subsection.

(e) A public utility district providing retail telecommunications services under this subsection must operate an open access network.

(f) This section does not apply to retail internet services provided by a public utility district under RCW 54.16.420.

(g) Provisions in this subsection do not apply to the provision of wholesale telecommunications services authorized in this section.

(h) For the purposes of this subsection:

(i) "Open access network" means a network that, during the useful life of the infrastructure, ensures service providers may use network services and facilities at rates, terms, and conditions that are not discriminatory or preferential between providers, and employs accountable interconnection arrangements published and available publicly.

(ii) "Unserved areas" means areas of Washington in which households and businesses lack access to broadband service of speeds at a minimum of 100 megabits per second download and at a minimum 20 megabits per second upload.

Sec. 3. RCW 53.08.370 and 2019 c 365 s 10 are each amended to read as follows:

(1) A port district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district's limits for the following purposes:

(a) For the district's own use; ~~(and)~~

(b) For the provision of wholesale telecommunications services within or without the district's limits ~~(- Nothing in this subsection shall be construed to authorize port districts to provide telecommunications services to end users); or~~

(c) For the provision of retail telecommunications services as authorized in this section.

(2) Except as provided in subsection (9) of this section, a port district providing wholesale telecommunications services under this section shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a port district offering such rates, terms, and conditions to an entity for wholesale telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) When a port district establishes a separate utility function for the provision of wholesale telecommunications services, it shall account for any and all revenues and expenditures related to its wholesale telecommunications facilities and services separately from revenues and expenditures related to its internal telecommunications operations. Any revenues received from the provision of wholesale telecommunications services must be dedicated to the utility function that includes the provision of wholesale telecommunications services for costs incurred to build and maintain the telecommunications facilities until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance the telecommunications facilities are discharged or retired.

(4) When a port district establishes a separate utility function for the provision of wholesale telecommunications services, all telecommunications services rendered by the separate function to the district for the district's internal telecommunications needs shall be charged at its true and full value. A port district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale telecommunications services.

(5) A port district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities.

(6) Except as otherwise specifically provided, a port district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a port district under this title.

(7) A port district that has not exercised the authorities provided in this section prior to June 7, 2018, must develop a business case plan before exercising the authorities provided in this section. The port district must procure an independent qualified consultant to review the business case plan, including the use of public funds in the provision of wholesale telecommunications services. Any recommendations or adjustments to the business case plan made during third-party review must be received and either rejected or accepted by the port commission in an open meeting.

(8) A port district with telecommunications facilities for use in the provision of wholesale telecommunications in accordance with subsection (1)(b) of this section may be subject to local leasehold excise taxes under RCW 82.29A.040.

(9)(a) A port district under this section may select a telecommunications company to operate all or a portion of the port district's telecommunications facilities.

(b) For the purposes of this section "telecommunications company" means any for-profit entity owned by investors that sells telecommunications services to end users.

(c) Nothing in this subsection (9) is intended to limit or otherwise restrict any other authority provided by law.

(10)(a) A port district may provide retail telecommunications services to end users in unserved areas.

(b) A port district must notify and consult with the governor's statewide broadband office within 30 days of its decision to provide retail telecommunications services to unserved areas. The governor's statewide broadband office must post notices received from a port district pursuant to this subsection on its public website.

(c) Any port district that intends to provide retail telecommunications services to unserved areas must submit a telecommunications infrastructure and service plan to the governor's statewide broadband office that will be published on the office's website. Submission of plans will enable the governor's statewide broadband office: (i) To better understand infrastructure deployment; (ii) to potentially allocate funding for unserved areas; (iii) to advance the state policy objectives; (iv) to determine whether the plan aligns with state policy objectives and broadband priorities; (v) to measure progress toward serving those in unserved areas; (vi) to report on the feasibility and sustainability of the project; and (vii) to confirm that the project is within an unserved area. The telecommunications infrastructure and service plans shall include, but not be limited to, the following:

(A) Map and description of how the deployment of proposed broadband infrastructure will achieve at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed and then increases to be consistent with the stated long-term state broadband speed goals for unserved areas;

(B) Project timeline prioritization of unserved areas; and

(C) Description of potential state and federal funding available to provide service to the unserved area.

(d) A port district that exercises its authority under (a) of this subsection to provide retail telecommunications services may use state funds, federal funds appropriated through the state, or federal funds dedicated for projects in unserved areas to fund projects identified in the submitted telecommunications infrastructure and service plan required in (c) of this subsection.

(e) A port district providing retail telecommunications services under this subsection must operate an open access network.

(f) Provisions in this subsection do not apply to the provision of wholesale telecommunications services authorized in this section.

(g) For the purposes of this subsection:

(i) "Open access network" means a network that, during the useful life of the infrastructure, ensures service providers may use network services and facilities at rates, terms, and conditions that are not discriminatory or preferential between providers, and employs accountable interconnection arrangements published and available publicly.

(ii) "Unserved areas" means areas of Washington in which households and businesses lack access to broadband service of speeds at a minimum of 100

megabits per second download and at a minimum 20 megabits per second upload.

Sec. 4. RCW 43.330.538 and 2019 c 365 s 6 are each amended to read as follows:

(1)~~(a)~~ Beginning January 1, 2021, and biennially thereafter, the office shall report to the legislative committees with jurisdiction over broadband policy and finance on the office's activities during the previous two years.

~~((2))~~ ~~(b)~~ The report must, at a minimum, contain:

~~((1))~~ ~~(i)~~ An analysis of the current availability and use of broadband, including average broadband speeds, within the state;

~~((2))~~ ~~(ii)~~ Information gathered from schools, libraries, hospitals, and public safety facilities across the state, determining the actual speed and capacity of broadband currently in use and the need, if any, for increases in speed and capacity to meet current or anticipated needs;

~~((3))~~ ~~(iii)~~ An overview of incumbent broadband infrastructure within the state;

~~((4))~~ ~~(iv)~~ A summary of the office's activities in coordinating broadband infrastructure development with the public works board, including a summary of funds awarded under RCW 43.155.160;

~~((5))~~ ~~(v)~~ Suggested policies, incentives, and legislation designed to accelerate the achievement of the goals under RCW 43.330.536; and

~~((6))~~ ~~(vi)~~ Any proposed legislative and policy initiatives.

(2)(a) By December 31, 2022, the office must submit a report to the governor and the appropriate committees of the legislature regarding the provision of retail telecommunications services to unserved areas by public utility districts and port districts as provided in RCW 54.16.330(10) and 53.08.370(10).

(b) The report must, at a minimum, contain:

(i) The number of public utility districts and port districts providing retail telecommunications services in an unserved area authorized in RCW 54.16.330(10) and 53.08.370(10); and

(ii) Any recommendations to improve the provision of retail telecommunications services in unserved areas.

Passed by the Senate April 23, 2021.

Passed by the House April 11, 2021.

Approved by the Governor May 13, 2021.

Filed in Office of Secretary of State May 13, 2021.

CHAPTER 294

[Engrossed Substitute House Bill 1336]

PUBLIC ENTITIES—RETAIL TELECOMMUNICATIONS SERVICES

AN ACT Relating to creating and expanding unrestricted authority for public entities to provide telecommunications services to end users; amending RCW 54.16.005, 54.16.330, 54.16.425, 53.08.005, 53.08.370, and 43.155.070; adding a new section to chapter 54.16 RCW; adding a new section to chapter 35.27 RCW; adding a new section to chapter 35.23 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 53.08 RCW; creating a new section; and repealing RCW 54.16.420.

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

Sec. 1. RCW 54.16.005 and 2000 c 81 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) "Broadband infrastructure" means networks of deployed telecommunications equipment and technologies necessary to provide high-speed internet access and other advanced telecommunications services.

(2) "Commission" means the Washington utilities and transportation commission.

~~((2))~~ (3) "District commission" means the governing board of a public utility district.

(4) "Retail telecommunications services" means the sale, lease, license, or indivisible right of use of telecommunications services or telecommunications facilities directly to end users.

(5) "Telecommunications" has the same meaning as ~~((that contained))~~ defined in RCW 80.04.010.

~~((3))~~ (6) "Telecommunications facilities" means lines, conduits, ducts, poles, wires, cables, crossarms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property, and routes used, operated, owned, or controlled by any entity to facilitate the provision of telecommunications services.

~~((4))~~ (7) "Wholesale telecommunications services" means the provision of telecommunications services or telecommunications facilities for resale ~~((by))~~ to an entity ~~((authorized to provide))~~ that provides retail telecommunications services ~~((to the general public and internet service providers)).~~

Sec. 2. RCW 54.16.330 and 2019 c 365 s 9 are each amended to read as follows:

(1)~~((+))~~ A public utility district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district's limits for the following purposes:

~~((+))~~ (a) For the district's internal telecommunications needs;

~~((ii))~~ For the provision of wholesale telecommunications services within the district and by contract with another public utility district.

~~((b))~~ Except as provided in subsection (8) of this section, ~~nothing in this section shall be construed to authorize public utility districts to provide telecommunications services to end users)~~ (b) For the provision of wholesale telecommunications services as follows:

(i) Within the district and by contract with another public utility district;

(ii) Within an area in an adjoining county that is already provided electrical services by the district; or

(iii) Within an adjoining county that does not have a public utility district providing electrical or telecommunications services headquartered within the county's boundaries, but only if the district providing telecommunications services is not authorized to provide electrical services; or

(c) For the provision of retail telecommunications services as authorized in this section.

(2) A public utility district providing wholesale or retail telecommunications services shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a public utility district offering rates, terms, and conditions to an entity for wholesale or retail telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) A public utility district providing wholesale or retail telecommunications services shall not be required to, but may, establish a separate utility system or function for such purpose. In either case, a public utility district providing wholesale or retail telecommunications services shall separately account for any revenues and expenditures for those services according to standards established by the state auditor pursuant to its authority in chapter 43.09 RCW and consistent with the provisions of this title. Any revenues received from the provision of wholesale or retail telecommunications services must be dedicated to costs incurred to build and maintain any telecommunications facilities constructed, installed, or acquired to provide such services, including payments on debt issued to finance such services, until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance such telecommunications facilities are discharged or retired.

(4) When a public utility district provides wholesale or retail telecommunications services, all telecommunications services rendered to the district for the district's internal telecommunications needs shall be allocated or charged at its true and full value. A public utility district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale or retail telecommunications services.

(5) If a person or entity receiving retail telecommunications services from a public utility district under this section has a complaint regarding the reasonableness of the rates, terms, conditions, or services provided, the person or entity may file a complaint with the district commission.

(6) A public utility district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities.

(7) Except as otherwise specifically provided, a public utility district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a public utility district under this title.

~~((8)(a) If an internet service provider operating on telecommunications facilities of a public utility district that provides wholesale telecommunications services but does not provide retail telecommunications services, ceases to provide access to the internet to its end-use customers, and no other retail service providers are willing to provide service, the public utility district may provide retail telecommunications services to the end-use customers of the defunct internet service provider in order for end-use customers to maintain access to the internet until a replacement internet service provider is, or providers are, in operation.~~

~~(b) Within thirty days of an internet service provider ceasing to provide access to the internet, the public utility district must initiate a process to find a replacement internet service provider or providers to resume providing access to the internet using telecommunications facilities of a public utility district.~~

~~(c) For a maximum period of five months, following initiation of the process begun in (b) of this section, or, if earlier than five months, until a replacement internet service provider is, or providers are, in operation, the district commission may establish a rate for providing access to the internet and charge customers to cover expenses necessary to provide access to the internet.~~

~~(9) The tax treatment of the retail telecommunications services provided by a public utility district to the end use customers during the period specified in subsection (8) of this section must be the same as if those retail telecommunications services were provided by the defunct internet service provider.)~~

(8) A public utility district may provide retail telecommunications services or telecommunications facilities within the district's limits or without the district's limits by contract with another public utility district, any political subdivision of the state authorized to provide retail telecommunications services in the state, or with any federally recognized tribe located in the state of Washington.

NEW SECTION. Sec. 3. A new section is added to chapter 54.16 RCW to read as follows:

(1) Before providing retail telecommunications services, a public utility district must report to its governing body and to the state broadband office the following about the area to be served by the public utility district:

(a) An assessment of the current availability of broadband infrastructure and its adequacy to provide high-speed internet access and other advanced telecommunications services to end users;

(b) The location of where retail telecommunications services will be provided;

(c) Evidence relating to the unserved nature of the community in which retail telecommunications services will be provided;

(d) Expected costs of providing retail telecommunications services to customers to be served by the public utility district;

(e) Evidence that proposed telecommunications infrastructure will be capable of scaling to greater download and upload speeds to meet state broadband goals under RCW 43.330.536;

(f) Sources of funding for the project that will supplement any grant or loan awards; and

(g) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users.

(2) The state broadband office must post a review of the proposed project on their website.

(3) For the purposes of this section, "unserved" means an area of Washington in which households and businesses lack access to broadband service at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed.

Sec. 4. RCW 54.16.425 and 2018 c 186 s 3 are each amended to read as follows:

(1) Property owned by a public utility district that is exempt from property tax under RCW 84.36.010 is subject to an annual payment in lieu of property taxes if the property consists of a broadband (~~((network))~~) infrastructure used in providing retail (~~((internet service))~~) telecommunications services.

(2)(a) The amount of the payment must be determined jointly and in good faith negotiation between the public utility district that owns the property and the county or counties in which the property is located.

(b) The amount agreed upon may not exceed the property tax amount that would be owed on the property comprising the broadband (~~((network))~~) infrastructure used in providing retail (~~((internet service))~~) telecommunications services as calculated by the department of revenue. The public utility district must provide information necessary for the department of revenue to make the required valuation under this subsection. The department of revenue must provide the amount of property tax that would be owed on the property to the county or counties in which the broadband (~~((network))~~) infrastructure is located on an annual basis.

(c) If the public utility district and a county cannot agree on the amount of the payment in lieu of taxes, either party may invoke binding arbitration by providing written notice to the other party. In the event that the amount of payment in lieu of taxes is submitted to binding arbitration, the arbitrators must consider the government services available to the public utility district's broadband (~~((network))~~) infrastructure used in providing retail (~~((internet service))~~) telecommunications services. The public utility district and county must each select one arbitrator, the two of whom must pick a third arbitrator. Costs of the arbitration, including compensation for the arbitrators' services, must be borne equally by the parties participating in the arbitration.

(3) By April 30th of each year, a public utility district must remit the annual payment to the county treasurer of each county in which the public utility district's broadband (~~((network))~~) infrastructure used in providing retail (~~((internet service))~~) telecommunications services is located in a form and manner required by the county treasurer.

(4) The county must distribute the amounts received under this section to all property taxing districts, including the state, in appropriate tax code areas in the same proportion as it would distribute property taxes from taxable property.

(5) By December 1, 2019, and annually thereafter, the department of revenue must submit a report to the appropriate legislative committees detailing the amount of payments made under this section and the amount of property tax that would be owed on the property comprising the broadband (~~((network))~~) infrastructure used in providing retail (~~((internet service))~~) telecommunications services.

~~((6) The definitions in RCW 54.16.420 apply to this section.))~~

NEW SECTION. Sec. 5. A new section is added to chapter 35.27 RCW to read as follows:

(1) A town may construct, purchase, acquire, develop, finance, lease, license, provide, contract for, interconnect, alter, improve, repair, operate, and maintain telecommunications services or telecommunications facilities for the purpose of furnishing the town and its inhabitants with telecommunications

services. The town has full authority to regulate and control the use, distribution, and price of the services.

(2)(a) Before providing telecommunications services pursuant to subsection (1) of this section, a town must examine and report to its governing body and to the state broadband office the following about the area to be served by the town:

(i) An assessment of the current availability of broadband infrastructure and its adequacy to provide high-speed internet access and other advanced telecommunications services to end users;

(ii) The location of where retail telecommunications services will be provided;

(iii) Evidence relating to the unserved nature of the community in which retail telecommunications services will be provided;

(iv) Expected costs of providing retail telecommunications services to customers to be served by the town;

(v) Evidence that proposed telecommunications infrastructure will be capable of scaling to greater download and upload speeds to meet state broadband goals under RCW 43.330.536;

(vi) Sources of funding for the project that will supplement any grant or loan awards; and

(vii) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users.

(b) The state broadband office must post a review of the proposed project on its website.

(3) For purposes of this section:

(a) "Telecommunications" has the same meaning as defined in RCW 80.04.010.

(b) "Unserved" means an area of Washington in which households and businesses lack access to broadband service at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed.

NEW SECTION. Sec. 6. A new section is added to chapter 35.23 RCW to read as follows:

(1) A second-class city may construct, purchase, acquire, develop, finance, lease, license, provide, contract for, interconnect, alter, improve, repair, operate, and maintain telecommunications services or telecommunications facilities for the purpose of furnishing the second-class city and its inhabitants with telecommunications services. The second-class city has full authority to regulate and control the use, distribution, and price of the services.

(2)(a) Before providing telecommunications services pursuant to subsection (1) of this section, a second-class city must examine and report to its governing body and to the state broadband office the following about the area to be served by the second-class city:

(i) An assessment of the current availability of broadband infrastructure and its adequacy to provide high-speed internet access and other advanced telecommunications services to end users;

(ii) The location of where retail telecommunications services will be provided;

(iii) Evidence relating to the unserved nature of the community in which retail telecommunications services will be provided;

(iv) Expected costs of providing retail telecommunications services to customers to be served by the second-class city;

(v) Evidence that proposed telecommunications infrastructure will be capable of scaling to greater download and upload speeds to meet state broadband goals under RCW 43.330.536;

(vi) Sources of funding for the project that will supplement any grant or loan awards; and

(vii) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users.

(b) The state broadband office must post a review of the proposed project on its website.

(3) For purposes of this section:

(a) "Telecommunications" has the same meaning as defined in RCW 80.04.010.

(b) "Unserviced" means an area of Washington in which households and businesses lack access to broadband service at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed.

NEW SECTION. Sec. 7. A new section is added to chapter 36.01 RCW to read as follows:

(1) A county may construct, purchase, acquire, develop, finance, lease, license, provide, contract for, interconnect, alter, improve, repair, operate, and maintain telecommunications services or telecommunications facilities for the purpose of furnishing the county and its inhabitants with telecommunications services. The county has full authority to regulate and control the use, distribution, and price of the services.

(2)(a) Before providing telecommunications services pursuant to subsection (1) of this section, a county must examine and report to its governing body and to the state broadband office the following about the area to be served by the county:

(i) An assessment of the current availability of broadband infrastructure and its adequacy to provide high-speed internet access and other advanced telecommunications services to end users;

(ii) The location of where retail telecommunications services will be provided;

(iii) Evidence relating to the unserved nature of the community in which retail telecommunications services will be provided;

(iv) Expected costs of providing retail telecommunications services to customers to be served by the county;

(v) Evidence that proposed telecommunications infrastructure will be capable of scaling to greater download and upload speeds to meet state broadband goals under RCW 43.330.536;

(vi) Sources of funding for the project that will supplement any grant or loan awards; and

(vii) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users.

(b) The state broadband office must post a review of the proposed project on its website.

(3) For purposes of this section:

(a) "Telecommunications" has the same meaning as defined in RCW 80.04.010.

(b) "Unserviced" means an area of Washington in which households and businesses lack access to broadband service at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed.

Sec. 8. RCW 53.08.005 and 2018 c 169 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) "Commission" means the Washington utilities and transportation commission.

(2) "Retail telecommunications services" means the sale, lease, license, or indivisible right of use of telecommunications services or telecommunications facilities directly to end users.

(3) "Telecommunications" has the same meaning as contained in RCW 80.04.010.

~~((3))~~ (4) "Telecommunications facilities" means lines, conduits, ducts, poles, wires, cables, crossarms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property, and routes used, operated, owned, or controlled by any entity to facilitate the provision of telecommunications services.

~~((4))~~ (5) "Wholesale telecommunications services" means the provision of telecommunications services or telecommunications facilities for resale ~~((by))~~ to an entity authorized to provide telecommunications services ~~((to the general public and internet service providers))~~. Wholesale telecommunications services includes the provision of unlit or dark optical fiber for resale, but not the provision of lit optical fiber.

Sec. 9. RCW 53.08.370 and 2019 c 365 s 10 are each amended to read as follows:

(1) A port district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district's limits for the following purposes:

(a) For the district's own use; ~~((and))~~

(b) For the provision of wholesale telecommunications services within or without the district's limits ~~((Nothing in this subsection shall be construed to authorize port districts to provide telecommunications services to end users))~~; or

(c) For the provision of retail telecommunications services as authorized by this section.

(2) Except as provided in subsection ~~((9))~~ (8) of this section, a port district providing wholesale or retail telecommunications services under this section shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a port district offering such rates, terms, and conditions to an entity for wholesale or retail telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) When a port district establishes a separate utility function for the provision of wholesale or retail telecommunications services, it shall account for any and all revenues and expenditures related to its wholesale or retail telecommunications facilities and services separately from revenues and expenditures related to its internal telecommunications operations. Any revenues received from the provision of wholesale or retail telecommunications services must be dedicated to the utility function that includes the provision of wholesale or retail telecommunications services for costs incurred to build and maintain the telecommunications facilities until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance the telecommunications facilities are discharged or retired.

(4) When a port district establishes a separate utility function for the provision of wholesale or retail telecommunications services, all telecommunications services rendered by the separate function to the district for the district's internal telecommunications needs shall be charged at its true and full value. A port district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale or retail telecommunications services.

(5) A port district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities.

(6) Except as otherwise specifically provided, a port district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a port district under this title.

~~(7) ((A port district that has not exercised the authorities provided in this section prior to June 7, 2018, must develop a business case plan before exercising the authorities provided in this section. The port district must procure an independent qualified consultant to review the business case plan, including the use of public funds in the provision of wholesale telecommunications services. Any recommendations or adjustments to the business case plan made during third party review must be received and either rejected or accepted by the port commission in an open meeting.~~

~~(8))~~ A port district with telecommunications facilities for use in the provision of wholesale or retail telecommunications in accordance with subsection (1)~~((b))~~ of this section may be subject to local leasehold excise taxes under RCW 82.29A.040.

~~((9))~~ (8)(a) A port district under this section may select a telecommunications company to operate all or a portion of the port district's telecommunications facilities.

(b) For the purposes of this section "telecommunications company" means any for-profit entity owned by investors that sells telecommunications services to end users.

(c) Nothing in this subsection ~~((9))~~ (8) is intended to limit or otherwise restrict any other authority provided by law.

(9) A port district may provide retail telecommunications services within or without the district's limits.

NEW SECTION. Sec. 10. A new section is added to chapter 53.08 RCW to read as follows:

(1) Before providing retail telecommunications services, a port district must report to its governing body and to the state broadband office the following about the area to be served by the port district:

(a) An assessment of the current availability of broadband infrastructure and its adequacy to provide high-speed internet access and other advanced telecommunications services to end users;

(b) The location of where retail telecommunications services will be provided;

(c) Evidence relating to the unserved nature of the community in which retail telecommunications services will be provided;

(d) Expected costs of providing retail telecommunications services to customers to be served by the port district;

(e) Evidence that proposed telecommunications infrastructure will be capable of scaling to greater download and upload speeds to meet state broadband goals under RCW 43.330.536;

(f) Sources of funding for the project that will supplement any grant or loan awards; and

(g) A strategic plan to maintain long-term operation of the infrastructure, and the expected installation charges and monthly costs for end users.

(2) The state broadband office must post a review of the proposed project on their website.

(3) For the purposes of this section, "unserved" means an area of Washington in which households and businesses lack access to broadband service at a minimum 100 megabits per second download speed and at a minimum 20 megabits per second upload speed.

***Sec. 11.** RCW 43.155.070 and 2017 3rd sp.s. c 10 s 9 are each amended to read as follows:

(1) To qualify for financial assistance under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, or increase access to broadband, a county, city, or town planning under RCW 36.70A.040 may not receive financial assistance under this chapter unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving financial assistance under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 may apply for and receive financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW

36.70A.040 before executing a contractual agreement for financial assistance with the board.

(3) In considering awarding financial assistance for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board must consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4)(a) The board must develop a process to prioritize applications and funding of loans and grants for public works projects submitted by local governments. The board must consider, at a minimum and in any order, the following factors in prioritizing projects:

(i) Whether the project is critical in nature and would affect the health and safety of many people;

(ii) The extent to which the project leverages other funds;

(iii) The extent to which the project is ready to proceed to construction;

(iv) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(v) Whether the project promotes the sustainable use of resources and environmental quality, as applicable;

(vi) Whether the project consolidates or regionalizes systems;

(vii) Whether the project encourages economic development through mixed-use and mixed income development consistent with chapter 36.70A RCW;

(viii) Whether the system is being well-managed in the present and for long-term sustainability;

(ix) Achieving equitable distribution of funds by geography and population;

(x) The extent to which the project meets the following state policy objectives:

(A) Efficient use of state resources;

(B) Preservation and enhancement of health and safety;

(C) Abatement of pollution and protection of the environment;

(D) Creation of new, family-wage jobs, and avoidance of shifting existing jobs from one Washington state community to another;

(E) Fostering economic development consistent with chapter 36.70A RCW;

(F) Efficiency in delivery of goods and services and transportation; and

(G) Reduction of the overall cost of public infrastructure;

(xi) Whether the applicant sought or is seeking funding for the project from other sources; and

(xii) Other criteria that the board considers necessary to achieve the purposes of this chapter.

(b) Before September 1, 2018, and each year thereafter, the board must develop and submit a report regarding the construction loans and grants to the office of financial management and appropriate fiscal committees of the senate and house of representatives. The report must include:

(i) *The total number of applications and amount of funding requested for public works projects;*

(ii) *A list and description of projects approved in the preceding fiscal year with project scores against the board's prioritization criteria;*

(iii) *The total amount of loan and grants disbursements made from the public works assistance account in the preceding fiscal year;*

(iv) *The total amount of loan repayments in the preceding fiscal year for outstanding loans from the public works assistance account;*

(v) *The total amount of loan repayments due for outstanding loans for each fiscal year over the following ten-year period; and*

(vi) *The total amount of funds obligated and timing of when the funds were obligated in the preceding fiscal year.*

(c) *The maximum amount of funding that the board may provide for any jurisdiction is ten million dollars per biennium.*

(5) *Existing debt or financial obligations of local governments may not be refinanced under this chapter. Each local government applicant must provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.*

(6) *Before September 1st of each year, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans and grants made under RCW 43.155.065 and 43.155.068.*

(7) *The board may not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds to the board for the purpose of funding public works projects under this chapter.*

(8) *To qualify for loans, grants, or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter ~~((70.95))~~ 70A.205 RCW.*

(9) *After January 1, 2010, any project designed to address the effects of stormwater or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.*

(10) *For projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade efficiency audit is reasonably obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its public works assistance account program loan or grant.*

(11) *The board must implement policies and procedures designed to maximize local government consideration of other funds to finance local infrastructure.*

(12) The relevant sections of the Washington Administrative Code must be amended by January 1, 2022, in accordance with the provisions of this section.

**Sec. 11 was vetoed. See message at end of chapter.*

NEW SECTION. **Sec. 12.** This act may be known and cited as the public broadband act.

NEW SECTION. **Sec. 13.** RCW 54.16.420 (Retail internet service—Definitions—Authority—Requirements) and 2018 c 186 s 1 are each repealed.

Passed by the House April 23, 2021.

Passed by the Senate April 11, 2021.

Approved by the Governor May 13, 2021, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 11, Engrossed Substitute House Bill No. 1336 entitled:

"AN ACT Relating to creating and expanding unrestricted authority for public entities to provide telecommunications services to end users."

Section 11 of this bill would allow local governments that are out of compliance with the Growth Management Act (GMA) to access funding distributed by the Public Works Board (Board) for broadband infrastructure. This language is almost identical to section 4 of 2SSB 5368 (encouraging rural economic development), but the language in this bill also requires an update to the Washington Administrative Code. Current law prohibits any funding distributed by the Board to go to a GMA noncompliant jurisdiction unless that funding is necessary to address a public health need or substantial environmental degradation. The new exception in Section 11 does not rise to the same level of urgency established in current law. In addition, an underpinning of the GMA has been that noncompliant jurisdictions are unable to access various forms of infrastructure funding. Broadband is critical infrastructure comparable to roads, bridges, and water systems, and should be treated the same before the Board.

For these reasons I have vetoed Section 11 of Engrossed Substitute House Bill No. 1336.

With the exception of Section 11, Engrossed Substitute House Bill No. 1336 is approved."

CHAPTER 295

[Substitute House Bill 1016]

JUNETEENTH—LEGAL HOLIDAY

AN ACT Relating to making Juneteenth a legal holiday; amending RCW 1.16.050; and creating new sections.

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

NEW SECTION. **Sec. 1.** The legislature finds that on June 19, 1865, two and one-half years after President Lincoln signed the Emancipation Proclamation and two months after the end of the Civil War, news finally reached Galveston, Texas, that the Civil War had ended and that all enslaved persons were now released from the bondage of slavery. Slavery has left a catastrophic and unrelenting legacy of trauma for generations of Black/African Americans. Racism, discrimination, and inequity have been prevalent throughout the United States of America since 1619, which has cost Black/African Americans life, liberty, and prosperity.

The legislature also finds that June 19th has been celebrated in smaller communities across the nation as Juneteenth. Also known as Freedom Day, Jubilee Day, Liberation Day, and Emancipation Day, Juneteenth is a holiday that celebrates the emancipation of those who had been enslaved in the United States. Although this day has special significance for Black/African Americans in the

state of Washington, the historical and continued harms of slavery and the rejoicing of the end of this atrocity should be acknowledged and celebrated by all Washingtonians.

The legislature intends to designate Juneteenth as a state legal holiday to celebrate the end of chattel slavery. The legislature encourages that this be a day to engage in fellowship with Black/African Americans; revisit our solidarity and commitment to antiracism; educate ourselves about slave history; and continue having conversations that uplift every Washingtonian.

Sec. 2. RCW 1.16.050 and 2020 c 74 s 2 are each amended to read as follows:

(1) The following are state legal holidays:

(a) Sunday;

(b) The first day of January, commonly called New Year's Day;

(c) The third Monday of January, celebrated as the anniversary of the birth of Martin Luther King, Jr.;

(d) The third Monday of February, to be known as Presidents' Day and celebrated as the anniversary of the births of Abraham Lincoln and George Washington;

(e) The last Monday of May, commonly known as Memorial Day;

(f) The nineteenth day of June, recognized as Juneteenth, a day of remembrance for the day the African slaves learned of their freedom;

(g) The fourth day of July, the anniversary of the Declaration of Independence;

~~((g))~~ (h) The first Monday in September, to be known as Labor Day;

~~((h))~~ (i) The eleventh day of November, to be known as Veterans' Day;

~~((i))~~ (j) The fourth Thursday in November, to be known as Thanksgiving Day;

~~((j))~~ (k) The Friday immediately following the fourth Thursday in November, to be known as Native American Heritage Day; and

~~((k))~~ (l) The twenty-fifth day of December, commonly called Christmas Day.

(2) Employees of the state and its political subdivisions, except employees of school districts and except those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, are entitled to one paid holiday per calendar year in addition to those specified in this section. Each employee of the state or its political subdivisions may select the day on which the employee desires to take the additional holiday provided for in this section after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority.

(3) Employees of the state and its political subdivisions, including employees of school districts and those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, are entitled to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. This includes employees of public institutions of higher education, including community colleges, technical colleges, and

workforce training programs. The employee may select the days on which the employee desires to take the two unpaid holidays after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority. If an employee prefers to take the two unpaid holidays on specific days for a reason of faith or conscience, or an organized activity conducted under the auspices of a religious denomination, church, or religious organization, the employer must allow the employee to do so unless the employee's absence would impose an undue hardship on the employer or the employee is necessary to maintain public safety. Undue hardship shall have the meaning established in rule by the office of financial management under RCW 43.41.109.

(4) If any of the state legal holidays specified in this section are also federal legal holidays but observed on different dates, only the state legal holidays are recognized as a paid legal holiday for employees of the state and its political subdivisions. However, for port districts and the law enforcement and public transit employees of municipal corporations, either the federal or the state legal holiday is recognized as a paid legal holiday, but in no case may both holidays be recognized as a paid legal holiday for employees.

(5) Whenever any state legal holiday:

(a) Other than Sunday, falls upon a Sunday, the following Monday is the legal holiday; or

(b) Falls upon a Saturday, the preceding Friday is the legal holiday.

(6) Nothing in this section may be construed to have the effect of adding or deleting the number of paid holidays provided for in an agreement between employees and employers of political subdivisions of the state or as established by ordinance or resolution of the local government legislative authority.

(7) The legislature declares that the following days are recognized as provided in this subsection, but may not be considered legal holidays for any purpose:

(a) The thirteenth day of January, recognized as Korean-American day;

(b) The twelfth day of October, recognized as Columbus day;

(c) The ninth day of April, recognized as former prisoner of war recognition day;

(d) The twenty-sixth day of January, recognized as Washington army and air national guard day;

(e) The seventh day of August, recognized as purple heart recipient recognition day;

(f) The second Sunday in October, recognized as Washington state children's day;

(g) The sixteenth day of April, recognized as Mother Joseph day;

(h) The fourth day of September, recognized as Marcus Whitman day;

(i) The seventh day of December, recognized as Pearl Harbor remembrance day;

(j) The twenty-seventh day of July, recognized as national Korean war veterans armistice day;

(k) The nineteenth day of February, recognized as civil liberties day of remembrance;

(l) ~~((The nineteenth day of June, recognized as Juneteenth, a day of remembrance for the day the slaves learned of their freedom;~~

~~((m)))~~ The thirtieth day of March, recognized as welcome home Vietnam veterans day;

~~((n)))~~ (m) The eleventh day of January, recognized as human trafficking awareness day;

~~((o)))~~ (n) The thirty-first day of March, recognized as Cesar Chavez day;

~~((p)))~~ (o) The tenth day of April, recognized as Dolores Huerta day;

~~((q)))~~ (p) The fourth Saturday of September, recognized as public lands day; and

~~((r)))~~ (q) The eighteenth day of December, recognized as blood donor day.

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, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the House February 25, 2021.

Passed by the Senate April 9, 2021.

Approved by the Governor May 13, 2021.

Filed in Office of Secretary of State May 13, 2021.

CHAPTER 296

[Engrossed Second Substitute House Bill 1069]

LOCAL GOVERNMENTS—FISCAL FLEXIBILITY

AN ACT Relating to local government fiscal flexibility; amending RCW 82.14.310, 82.14.320, 82.14.330, 82.14.340, 82.14.450, 82.14.460, 82.04.050, 82.04.050, 82.46.010, 82.46.015, 82.46.035, 82.46.037, 84.55.050, 35.21.290, and 35.67.210; 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 the COVID-19 pandemic, as recognized by emergency proclamations issued by the governor, has resulted in an unprecedented drop in local government revenues. The legislature intends to provide local governments with increased flexibility in the use of existing revenues in order to enable local governments to continue to provide essential services and to facilitate economic recovery through December 31, 2023.

PART I

CRIMINAL JUSTICE SALES TAX

Sec. 2. RCW 82.14.310 and 2019 c 415 s 988 are each 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 ~~((twenty-three million two hundred thousand dollars))~~ \$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 (~~one thousand~~) 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 (~~one thousand~~) 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 (~~one thousand~~) 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 (ii) of this subsection and the annual number of criminal cases that are filed as described under (iii) of this subsection. Future distributions must be based on the most recent figures for both the crime rate as described under (ii) of this subsection and the annual number of criminal cases that are filed as described under (iii) of this subsection.

(3) Moneys distributed under this section must be expended exclusively for criminal justice purposes (~~and~~). Except after the effective date of this section 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 (~~one hundred fifty-three thousand dollars~~) \$153,000, and during the 2019-2021 fiscal biennium, the sum of (~~five hundred ten thousand dollars~~) \$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. 3. RCW 82.14.320 and 2011 1st sp.s. c 50 s 971 are each amended to read as follows:

(1) The municipal criminal justice assistance account is created in the state treasury. Beginning in fiscal year 2000, the state treasurer must transfer into the municipal criminal justice assistance account for distribution under this section from the general fund the sum of (~~four million six hundred thousand dollars~~) \$4,600,000 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) No city may receive a distribution under this section from the municipal criminal justice assistance account unless:

(a) The city has a crime rate in excess of (~~one hundred twenty-five~~) 125 percent of the statewide average as calculated in the most recent annual report on crime in Washington state as published by the Washington association of sheriffs and police chiefs;

(b) The city has levied the tax authorized in RCW 82.14.030(2) at the maximum rate or the tax authorized in RCW 82.46.010(3) at the maximum rate; and

(c) The city has a per capita yield from the tax imposed under RCW 82.14.030(1) at the maximum rate of less than (~~one hundred fifty~~) 150 percent of the statewide average per capita yield for all cities from such local sales and use tax.

(3) The moneys deposited in the municipal criminal justice assistance account for distribution under this section, less any moneys appropriated for purposes under subsection (7) of this section, must be distributed at such times as distributions are made under RCW 82.44.150. The distributions must be made as follows:

(a) Unless reduced by this subsection, (~~thirty~~) 30 percent of the moneys must be distributed ratably based on population as last determined by the office of financial management to those cities eligible under subsection (2) of this section that have a crime rate determined under subsection (2)(a) of this section which is greater than (~~one hundred seventy-five~~) 175 percent of the statewide average crime rate. No city may receive more than (~~fifty~~) 50 percent of any moneys distributed under this subsection (a) but, if a city distribution is reduced as a result of exceeding the (~~fifty~~) 50 percent limitation, the amount not distributed must be distributed under (b) of this subsection.

(b) The remainder of the moneys, including any moneys not distributed in subsection (2)(a) of this section, must be distributed to all cities eligible under

subsection (2) of this section ratably based on population as last determined by the office of financial management.

(4) No city may receive more than (~~thirty~~) 30 percent of all moneys distributed under subsection (3) of this section.

(5) Notwithstanding other provisions of this section, the distributions to any city that substantially decriminalizes or repeals its criminal code after July 1, 1990, and that does not reimburse the county for costs associated with criminal cases under RCW 3.50.800 or 3.50.805(2), must be made to the county in which the city is located.

(6) Moneys distributed under this section must be expended exclusively for criminal justice purposes (~~and~~). Except after the effective date of this section 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 justice system occurs, and which includes domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020, and publications and public educational efforts designed to provide information and assistance to parents in dealing with runaway or at-risk youth. 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.

(7) Not more than five percent of the funds deposited to the municipal 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.

(8) During the 2011-2013 fiscal biennium, the amount that would otherwise be transferred into the municipal criminal justice assistance account from the general fund under subsection (1) of this section must be reduced by 3.4 percent.

Sec. 4. RCW 82.14.330 and 2011 1st sp.s. c 50 s 972 are each amended to read as follows:

(1)(a) Beginning in fiscal year 2000, the state treasurer must transfer into the municipal criminal justice assistance account for distribution under this section from the general fund the sum of (~~four million six hundred thousand dollars~~) \$4,600,000 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. The moneys deposited in the municipal criminal justice assistance account for distribution under this section, less any moneys appropriated for purposes under subsection (4) of this section, must be distributed to the cities of the state as follows:

(i) (~~Twenty~~) 20 percent appropriated for distribution must be distributed to cities with a three-year average violent crime rate for each (~~one thousand~~)

1,000 in population in excess of (~~one hundred fifty~~) 150 percent of the statewide three-year average violent crime rate for each (~~one thousand~~) 1,000 in population. The three-year average violent crime rate must be calculated using the violent crime rates for each of the preceding three years from the annual reports on crime in Washington state as published by the Washington association of sheriffs and police chiefs. Moneys must be distributed under this subsection (1)(a) ratably based on population as last determined by the office of financial management, but no city may receive more than one dollar per capita. Moneys remaining undistributed under this subsection at the end of each calendar year must be distributed to the criminal justice training commission to reimburse participating city law enforcement agencies with (~~ten~~) 10 or fewer full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training, as provided in RCW 43.101.200.

(ii) (~~Sixteen~~) 16 percent must be distributed to cities ratably based on population as last determined by the office of financial management, but no city may receive less than (~~one thousand dollars~~) \$1,000.

(b) The moneys deposited in the municipal criminal justice assistance account for distribution under this subsection (1) must be distributed at such times as distributions are made under RCW 82.44.150.

(c) Moneys distributed under this subsection (1) must be expended exclusively for criminal justice purposes (~~and~~). Except after the effective date of this section 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 justice system occurs, and which includes domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020. 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.

(2)(a) In addition to the distributions under subsection (1) of this section:

(i) (~~Ten~~) 10 percent must be distributed on a per capita basis to cities that contract with another governmental agency for the majority of the city's law enforcement services. Cities that subsequently qualify for this distribution must notify the department of commerce by November 30th for the upcoming calendar year. The department of commerce must provide a list of eligible cities to the state treasurer by December 31st. The state treasurer must modify the distribution of these funds in the following year. Cities have the responsibility to notify the department of commerce of any changes regarding these contractual relationships. Adjustments in the distribution formula to add or delete cities may be made only for the upcoming calendar year; no adjustments may be made retroactively.

(ii) The remaining (~~fifty-four~~) 54 percent must be distributed to cities and towns by the state treasurer on a per capita basis. These funds must be used for:

(A) Innovative law enforcement strategies; (B) programs to help at-risk children or child abuse victim response programs; and (C) programs designed to reduce the level of domestic violence or to provide counseling for domestic violence victims.

(b) The moneys deposited in the municipal criminal justice assistance account for distribution under this subsection (2), less any moneys appropriated for purposes under subsection (4) of this section, must be distributed at the times as distributions are made under RCW 82.44.150. Moneys remaining undistributed under this subsection at the end of each calendar year must be distributed to the criminal justice training commission to reimburse participating city law enforcement agencies with ~~((ten))~~ 10 or fewer full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training, as provided in RCW 43.101.200.

(c) If a city is found by the state auditor to have expended funds received under this subsection (2) in a manner that does not comply with the criteria under which the moneys were received, the city is ineligible to receive future distributions under this subsection (2) until the use of the moneys are justified to the satisfaction of the director or are repaid to the state general fund.

(3) Notwithstanding other provisions of this section, the distributions to any city that substantially decriminalizes or repeals its criminal code after July 1, 1990, and that does not reimburse the county for costs associated with criminal cases under RCW 3.50.800 or 3.50.805(2), must be made to the county in which the city is located.

(4) Not more than five percent of the funds deposited to the municipal 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 2011-2013 fiscal biennium, the amount that would otherwise be transferred into the municipal criminal justice assistance account from the general fund under subsection (1) of this section must be reduced by 3.4 percent.

Sec. 5. RCW 82.14.340 and 2010 c 127 s 3 are each amended to read as follows:

(1) The legislative authority of any county may fix and impose a sales and use tax in accordance with the terms of this chapter, provided that such sales and use tax is subject to repeal by referendum, using the procedures provided in RCW 82.14.036. The referendum procedure provided in RCW 82.14.036 is the exclusive method for subjecting any county sales and use tax ordinance or resolution to a referendum vote.

(2) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within such county. The rate of tax equals one-tenth of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax).

(3) When distributing moneys collected under this section, the state treasurer must distribute ~~((ten))~~ 10 percent of the moneys to the county in which the tax was collected. The remainder of the moneys collected under this section must be distributed to the county and the cities within the county ratably based

on population as last determined by the office of financial management. In making the distribution based on population, the county must receive that proportion that the unincorporated population of the county bears to the total population of the county and each city must receive that proportion that the city incorporated population bears to the total county population.

(4) Moneys received from any tax imposed under this section must be expended for criminal justice purposes. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs, and which includes domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020. After the effective date of this section through December 31, 2023, criminal justice purposes includes local government programs which have a reasonable relationship to reducing the numbers of people interacting with the criminal justice system including, but not limited to, reducing homelessness or improving behavioral health.

(5) In the expenditure of funds for criminal justice purposes as provided in this section, cities and counties, or any combination thereof, are expressly authorized to participate in agreements, pursuant to chapter 39.34 RCW, to jointly expend funds for criminal justice purposes of mutual benefit. Such criminal justice purposes of mutual benefit include, but are not limited to, the construction, improvement, and expansion of jails, court facilities, juvenile justice facilities, and services with ancillary benefits to the civil justice system.

Sec. 6. RCW 82.14.450 and 2010 c 127 s 1 are each amended to read as follows:

(1) A county legislative authority may submit an authorizing proposition to the county voters at a primary or general election and, if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used. The rate of tax under this section may not exceed three-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(2)(a) A city legislative authority may submit an authorizing proposition to the city voters at a primary or general election and, if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used. The rate of tax under this subsection may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. A city may not begin imposing a tax approved by the voters under this subsection prior to January 1, 2011.

(b) If a county adopts an ordinance or resolution to submit a ballot proposition to the voters to impose the sales and use tax under subsection (1) of this section prior to a city within the county adopting an ordinance or resolution to submit a ballot proposition to the voters to impose the tax under this subsection, the rate of tax by the city under this subsection may not exceed an amount that would cause the total county and city tax rate under this section to exceed three-tenths of one percent. This subsection (2)(b) also applies if the

county and city adopt an ordinance or resolution to impose sales and use taxes under this section on the same date.

(c) If the city adopts an ordinance or resolution to submit a ballot proposition to the voters to impose the sales and use tax under this subsection prior to the county in which the city is located, the county must provide a credit against its tax under subsection (1) of this section for the city tax under this subsection to the extent the total county and city tax rate under this section would exceed three-tenths of one percent.

(3) The tax authorized in this section is in addition to any 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.

(4) The retail sale or use of motor vehicles, and the lease of motor vehicles for up to the first thirty-six months of the lease, are exempt from tax imposed under this section.

(5) One-third of all money received under this section must be used solely for criminal justice purposes, fire protection purposes, or both. For the purposes of this subsection, "criminal justice purposes" has the same meaning as provided in RCW 82.14.340, except that from the effective date of this section through December 31, 2023, "criminal justice purposes" includes local government programs which have a reasonable relationship to reducing the numbers of people interacting with the criminal justice system including, but not limited to, reducing homelessness or improving behavioral health.

(6) Money received by a county under subsection (1) of this section must be shared between the county and the cities as follows: (~~Sixty~~) 60 percent must be retained by the county and (~~forty~~) 40 percent must be distributed on a per capita basis to cities in the county.

(7) Tax proceeds received by a city imposing a tax under this section must be shared between the county and city as follows: (~~Fifteen~~) 15 percent must be distributed to the county and (~~eighty-five~~) 85 percent is retained by the city.

Sec. 7. RCW 82.14.460 and 2015 c 291 s 5 are each amended to read as follows:

(1)(a) A county legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this chapter.

(b) If a county with a population over eight hundred thousand has not imposed the tax authorized under this subsection by January 1, 2011, any city with a population over thirty thousand located in that county may authorize, fix, and impose the sales and use tax in accordance with the terms of this chapter. The county must provide a credit against its tax for the full amount of tax imposed under this subsection (1)(b) by any city located in that county if the county imposes the tax after January 1, 2011.

(2) The tax authorized in this section is in addition to any 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 for a county's tax and within a city for a city's tax. The rate of tax equals one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section must be used solely for the purpose of providing for the operation or delivery of chemical dependency or mental

health treatment programs and services and for the operation or delivery of therapeutic court programs and services. Moneys collected by cities under this section may also be used for modifications to existing facilities to address health and safety needs necessary for the provision, operation, or delivery of chemical dependency or mental health treatment programs or services otherwise funded with moneys collected in this section. For the purposes of this section, "programs and services" includes, but is not limited to, treatment services, case management, transportation, and housing that are a component of a coordinated chemical dependency or mental health treatment program or service. Every county that authorizes the tax provided in this section shall, and every other county may, establish and operate a therapeutic court component for dependency proceedings designed to be effective for the court's size, location, and resources.

(4) All moneys collected under this section must be used solely for the purpose of providing new or expanded programs and services as provided in this section, except as follows:

(a) For a county with a population larger than twenty-five thousand or a city with a population over thirty thousand, which initially imposed the tax authorized under this section prior to January 1, 2012, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to fifty percent may be used to supplant existing funding in calendar years 2011-2012; up to forty percent may be used to supplant existing funding in calendar year 2013; up to thirty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016;

(b) For a county with a population larger than twenty-five thousand or a city with a population over thirty thousand, which initially imposes the tax authorized under this section after December 31, 2011, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to fifty percent may be used to supplant existing funding for up to the first three calendar years following adoption; and up to twenty-five percent may be used to supplant existing funding for the fourth and fifth years after adoption;

(c) For a county with a population of less than twenty-five thousand, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to eighty percent may be used to supplant existing funding in calendar years 2011-2012; up to sixty percent may be used to supplant existing funding in calendar year 2013; up to forty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016; and

(d) Notwithstanding (a) through (c) of this subsection, moneys collected under this section may be used to support the cost of the judicial officer and support staff of a therapeutic court.

(5) Nothing in this section may be interpreted to prohibit the use of moneys collected under this section for the replacement of lapsed federal funding previously provided for the operation or delivery of services and programs as provided in this section.

PART II
LODGING TAX

Sec. 8. RCW 82.04.050 and 2017 3rd sp.s. c 37 s 1201 are each amended to read as follows:

(1)(a) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:

(i) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(ii) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(iii) Purchases for the purpose of consuming the property purchased in producing for sale as a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(v) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065; or

(vi) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a)(i) through (vi) of this subsection following such use.

(c) The term also means every sale of tangible personal property to persons engaged in any business that is taxable under RCW 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

(2) The term "sale at retail" or "retail sale" includes the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to

nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and also includes the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but does not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same. For the purposes of this section, it is presumed that the sale of and charge made for the furnishing of lodging offered regularly for public occupancy for periods of less than a month constitutes a license to use or enjoy the property subject to sales and use tax and not a rental or lease of property;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

- (a) Abstract, title insurance, and escrow services;
- (b) Credit bureau services;
- (c) Automobile parking and storage garage services;
- (d) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;
- (e) Service charges associated with tickets to professional sporting events;
- (f) The following personal services: Tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services; and
- (g)(i) Operating an athletic or fitness facility, including all charges for the use of such a facility or for any associated services and amenities, except as provided in (g)(ii) of this subsection.
- (ii) Notwithstanding anything to the contrary in (g)(i) of this subsection (3), the term "sale at retail" and "retail sale" under this subsection does not include:
 - (A) Separately stated charges for the use of an athletic or fitness facility where such use is primarily for a purpose other than engaging in or receiving instruction in a physical fitness activity;
 - (B) Separately stated charges for the use of a discrete portion of an athletic or fitness facility, other than a pool, where such discrete portion of the facility does not by itself meet the definition of "athletic or fitness facility" in this subsection;
 - (C) Separately stated charges for services, such as advertising, massage, nutritional consulting, and body composition testing, that do not require the customer to engage in physical fitness activities to receive the service. The exclusion in this subsection (3)(g)(ii)(C) does not apply to personal training services and instruction in a physical fitness activity;
 - (D) Separately stated charges for physical therapy provided by a physical therapist, as those terms are defined in RCW 18.74.010, or occupational therapy provided by an occupational therapy practitioner, as those terms are defined in RCW 18.59.020, when performed pursuant to a referral from an authorized health care practitioner or in consultation with an authorized health care practitioner. For the purposes of this subsection (3)(g)(ii)(D), an authorized health care practitioner means a health care practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or 18.71A RCW;
 - (E) Rent or association fees charged by a landlord or residential association to a tenant or residential owner with access to an athletic or fitness facility maintained by the landlord or residential association, unless the rent or fee varies depending on whether the tenant or owner has access to the facility;
 - (F) Services provided in the regular course of employment by an employee with access to an athletic or fitness facility maintained by the employer for use without charge by its employees or their family members;

(G) The provision of access to an athletic or fitness facility by an educational institution to its students and staff. However, charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities are a retail sale under this subsection (3)(g). For purposes of this subsection (3)(g)(ii)(G), "educational institution" has the same meaning as in RCW 82.04.170;

(H) Yoga, chi gong, or martial arts classes, training, or events held at a community center, park, school gymnasium, college or university, hospital or other medical facility, private residence, or any other facility that is not operated within and as part of an athletic or fitness facility.

(iii) Nothing in (g)(ii) of this subsection (3) may be construed to affect the taxation of sales made by the operator of an athletic or fitness facility, where such sales are defined as a retail sale under any provision of this section other than this subsection (3).

(iv) For the purposes of this subsection (3)(g), the following definitions apply:

(A) "Athletic or fitness facility" means an indoor or outdoor facility or portion of a facility that is primarily used for: Exercise classes; strength and conditioning programs; personal training services; tennis, racquetball, handball, squash, or pickleball; or other activities requiring the use of exercise or strength training equipment, such as treadmills, elliptical machines, stair climbers, stationary cycles, rowing machines, pilates equipment, balls, climbing ropes, jump ropes, and weightlifting equipment.

(B) "Martial arts" means any of the various systems of training for physical combat or self-defense. "Martial arts" includes, but is not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing, kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido, Kendo, tai chi, and mixed martial arts.

(C) "Physical fitness activities" means activities that involve physical exertion for the purpose of improving or maintaining the general fitness, strength, flexibility, conditioning, or health of the participant. "Physical fitness activities" includes participating in yoga, chi gong, or martial arts.

(4)(a) The term also includes the renting or leasing of tangible personal property to consumers.

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6)(a) The term also includes the sale of prewritten computer software to a consumer, regardless of the method of delivery to the end user. For purposes of (a) and (b) of this subsection, the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

(b) The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten computer software.

(c)(i) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(ii)(A) The service described in (c)(i) of this subsection (6) includes the right to access and use prewritten computer software to perform data processing.

(B) For purposes of this subsection (6)(c)(ii), "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

(7) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

(8)(a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection (8) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

(9) The term also includes the charge made for providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (9), an operator must do more than maintain, inspect, or set up the tangible personal property.

(10) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(11) The term also does not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor does it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; (c) farmers for the purpose of providing bee pollination services; and (d) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

(13) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

(14) The term does not include the sale for resale of any service described in this section if the sale would otherwise constitute a "sale at retail" and "retail sale" under this section.

(15)(a) The term "sale at retail" or "retail sale" includes amounts charged, however labeled, to consumers to engage in any of the activities listed in this subsection (15)(a), including the furnishing of any associated equipment or, except as otherwise provided in this subsection, providing instruction in such activities, where such charges are not otherwise defined as a "sale at retail" or "retail sale" in this section:

(i)(A) Golf, including any variant in which either golf balls or golf clubs are used, such as miniature golf, hitting golf balls at a driving range, and golf simulators, and including fees charged by a golf course to a player for using his or her own cart. However, charges for golf instruction are not a retail sale, provided that if the instruction involves the use of a golfing facility that would otherwise require the payment of a fee, such as green fees or driving range fees, such fees, including the applicable retail sales tax, must be separately identified and charged by the golfing facility operator to the instructor or the person receiving the instruction.

(B) Notwithstanding (a)(i)(A) of this subsection (15) and except as otherwise provided in this subsection (15)(a)(i)(B), the term "sale at retail" or "retail sale" does not include amounts charged to participate in, or conduct, a golf tournament or other competitive event. However, amounts paid by event participants to the golf facility operator are retail sales under this subsection (15)(a)(i). Likewise, amounts paid by the event organizer to the golf facility are retail sales under this subsection (15)(a)(i), if such amounts vary based on the number of event participants;

(ii) Ballooning, hang gliding, indoor or outdoor sky diving, paragliding, parasailing, and similar activities;

(iii) Air hockey, billiards, pool, foosball, darts, shuffleboard, ping pong, and similar games;

(iv) Access to amusement park, theme park, and water park facilities, including but not limited to charges for admission and locker or cabana rentals. Discrete charges for rides or other attractions or entertainment that are in addition to the charge for admission are not a retail sale under this subsection (15)(a)(iv). For the purposes of this subsection, an amusement park or theme park is a location that provides permanently affixed amusement rides, games, and other entertainment, but does not include parks or zoos for which the primary purpose is the exhibition of wildlife, or fairs, carnivals, and festivals as defined in (b)(i) of this subsection;

(v) Batting cage activities;

(vi) Bowling, but not including competitive events, except that amounts paid by the event participants to the bowling alley operator are retail sales under this subsection (15)(a)(vi). Likewise, amounts paid by the event organizer to the operator of the bowling alley are retail sales under this subsection (15)(a)(vi), if such amounts vary based on the number of event participants;

(vii) Climbing on artificial climbing structures, whether indoors or outdoors;

(viii) Day trips for sightseeing purposes;

(ix) Bungee jumping, zip lining, and riding inside a ball, whether inflatable or otherwise;

(x) Horseback riding offered to the public, where the seller furnishes the horse to the buyer and providing instruction is not the primary focus of the activity, including guided rides, but not including therapeutic horseback riding provided by an instructor certified by a nonprofit organization that offers national or international certification for therapeutic riding instructors;

(xi) Fishing, including providing access to private fishing areas and charter or guided fishing, except that fishing contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xii) Guided hunting and hunting at game farms and shooting preserves, except that hunting contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xiii) Swimming, but only in respect to (A) recreational or fitness swimming that is open to the public, such as open swim, lap swimming, and special events like kids night out and pool parties during open swim time, and (B) pool parties for private events, such as birthdays, family gatherings, and employee outings. Fees for swimming lessons, to participate in swim meets and other competitions, or to join a swim team, club, or aquatic facility are not retail sales under this subsection (15)(a)(xiii);

(xiv) Go-karting, bumper cars, and other motorized activities where the seller provides the vehicle and the premises where the buyer will operate the vehicle;

(xv) Indoor or outdoor playground activities, such as inflatable bounce structures and other inflatables; mazes; trampolines; slides; ball pits; games of tag, including laser tag and soft-dart tag; and human gyroscope rides, regardless of whether such activities occur at the seller's place of business, but not including playground activities provided for children by a licensed child day care center or licensed family day care provider as those terms are defined in RCW ((43.215.010)) 43.216.010;

(xvi) Shooting sports and activities, such as target shooting, skeet, trap, sporting clays, "5" stand, and archery, but only in respect to discrete charges to members of the public to engage in these activities, but not including fees to enter a competitive event, instruction that is entirely or predominately classroom based, or to join or renew a membership at a club, range, or other facility;

(xvii) Paintball and airsoft activities;

(xviii) Skating, including ice skating, roller skating, and inline skating, but only in respect to discrete charges to members of the public to engage in skating activities, but not including skating lessons, competitive events, team activities, or fees to join or renew a membership at a skating facility, club, or other organization;

(xix) Nonmotorized snow sports and activities, such as downhill and cross-country skiing, snowboarding, ski jumping, sledding, snow tubing, snowshoeing, and similar snow sports and activities, whether engaged in outdoors or in an indoor facility with or without snow, but only in respect to discrete charges to the public for the use of land or facilities to engage in nonmotorized snow sports and activities, such as fees, however labeled, for the use of ski lifts and tows and daily or season passes for access to trails or other areas where nonmotorized snow sports and activities are conducted. However, fees for the following are not retail sales under this subsection (15)(a)(xix): (A) Instructional lessons; (B) permits issued by a governmental entity to park a vehicle on or access public lands; and (C) permits or leases granted by an owner of private timberland for recreational access to areas used primarily for growing and harvesting timber; and

(xx) Scuba diving; snorkeling; river rafting; surfing; kiteboarding; flyboarding; water slides; inflatables, such as water pillows, water trampolines, and water rollers; and similar water sports and activities.

(b) Notwithstanding anything to the contrary in this subsection (15), the term "sale at retail" or "retail sale" does not include charges:

(i) Made for admission to, and rides or attractions at, fairs, carnivals, and festivals. For the purposes of this subsection, fairs, carnivals, and festivals are events that do not exceed (~~(twenty-one)~~) 21 days and a majority of the amusement rides, if any, are not affixed to real property;

(ii) Made by an educational institution to its students and staff for activities defined as retail sales by (a)(i) through (xx) of this subsection. However, charges made by an educational institution to its alumni or other members of the general public for these activities are a retail sale under this subsection (15). For purposes of this subsection (15)(b)(ii), "educational institution" has the same meaning as in RCW 82.04.170;

(iii) Made by a vocational school for commercial diver training that is licensed by the workforce training and education coordinating board under chapter 28C.10 RCW; or

(iv) Made for day camps offered by a nonprofit organization or state or local governmental entity that provide youth not older than age (~~(eighteen)~~) 18, or that are focused on providing individuals with disabilities or mental illness, the opportunity to participate in a variety of supervised activities.

***Sec. 9.** RCW 82.04.050 and 2020 c 80 s 58 are each amended to read as follows:

(1)(a) *"Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:*

(i) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(ii) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(iii) Purchases for the purpose of consuming the property purchased in producing for sale as a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(v) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065; or

(vi) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of

property covered by the extended warranty without intervening use by such person.

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a)(i) through (vi) of this subsection following such use.

(c) The term also means every sale of tangible personal property to persons engaged in any business that is taxable under RCW 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

(2) The term "sale at retail" or "retail sale" includes the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and also includes the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but does not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real

property and not a mere license to use or enjoy the same. For the purposes of this subsection, it is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same. For the purposes of this section, it is presumed that the sale of and charge made for the furnishing of lodging offered regularly for public occupancy for periods of less than a month constitutes a license to use or enjoy the property subject to sales and use tax and not a rental or lease of property;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Abstract, title insurance, and escrow services;

(b) Credit bureau services;

(c) Automobile parking and storage garage services;

(d) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(e) Service charges associated with tickets to professional sporting events;

(f) The following personal services: Tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services; and

(g)(i) Operating an athletic or fitness facility, including all charges for the use of such a facility or for any associated services and amenities, except as provided in (g)(ii) of this subsection.

(ii) Notwithstanding anything to the contrary in (g)(i) of this subsection (3), the term "sale at retail" and "retail sale" under this subsection does not include:

(A) Separately stated charges for the use of an athletic or fitness facility where such use is primarily for a purpose other than engaging in or receiving instruction in a physical fitness activity;

(B) Separately stated charges for the use of a discrete portion of an athletic or fitness facility, other than a pool, where such discrete portion of the facility does not by itself meet the definition of "athletic or fitness facility" in this subsection;

(C) Separately stated charges for services, such as advertising, massage, nutritional consulting, and body composition testing, that do not require the customer to engage in physical fitness activities to receive the service. The exclusion in this subsection (3)(g)(ii)(C) does not apply to personal training services and instruction in a physical fitness activity;

(D) Separately stated charges for physical therapy provided by a physical therapist, as those terms are defined in RCW 18.74.010, or occupational therapy provided by an occupational therapy practitioner, as those terms are defined in RCW 18.59.020, when performed pursuant to a referral from an authorized health care practitioner or in consultation with an authorized health care practitioner. For the purposes of this subsection (3)(g)(ii)(D), an authorized health care practitioner means a health care practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.71, or 18.71A RCW;

(E) Rent or association fees charged by a landlord or residential association to a tenant or residential owner with access to an athletic or fitness facility maintained by the landlord or residential association, unless the rent or fee varies depending on whether the tenant or owner has access to the facility;

(F) Services provided in the regular course of employment by an employee with access to an athletic or fitness facility maintained by the employer for use without charge by its employees or their family members;

(G) The provision of access to an athletic or fitness facility by an educational institution to its students and staff. However, charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities are a retail sale under this subsection (3)(g). For purposes of this subsection (3)(g)(ii)(G), "educational institution" has the same meaning as in RCW 82.04.170;

(H) Yoga, chi gong, or martial arts classes, training, or events held at a community center, park, school gymnasium, college or university, hospital or other medical facility, private residence, or any other facility that is not operated within and as part of an athletic or fitness facility.

(iii) Nothing in (g)(ii) of this subsection (3) may be construed to affect the taxation of sales made by the operator of an athletic or fitness facility, where such sales are defined as a retail sale under any provision of this section other than this subsection (3).

(iv) For the purposes of this subsection (3)(g), the following definitions apply:

(A) "Athletic or fitness facility" means an indoor or outdoor facility or portion of a facility that is primarily used for: Exercise classes; strength and conditioning programs; personal training services; tennis, racquetball, handball, squash, or pickleball; or other activities requiring the use of exercise or strength training equipment, such as treadmills, elliptical machines, stair climbers, stationary cycles, rowing machines, pilates equipment, balls, climbing ropes, jump ropes, and weightlifting equipment.

(B) "Martial arts" means any of the various systems of training for physical combat or self-defense. "Martial arts" includes, but is not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing, kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido, Kendo, tai chi, and mixed martial arts.

(C) "Physical fitness activities" means activities that involve physical exertion for the purpose of improving or maintaining the general fitness, strength, flexibility, conditioning, or health of the participant. "Physical fitness activities" includes participating in yoga, chi gong, or martial arts.

(4)(a) The term also includes the renting or leasing of tangible personal property to consumers.

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6)(a) The term also includes the sale of prewritten computer software to a consumer, regardless of the method of delivery to the end user. For purposes of (a) and (b) of this subsection, the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

(b) The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten computer software.

(c)(i) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(ii)(A) The service described in (c)(i) of this subsection (6) includes the right to access and use prewritten computer software to perform data processing.

(B) For purposes of this subsection (6)(c)(ii), "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

(7) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

(8)(a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection (8) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

(9) The term also includes the charge made for providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (9), an operator must do more than maintain, inspect, or set up the tangible personal property.

(10) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(11) The term also does not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor does it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; (c) farmers for the purpose of providing bee pollination services; and (d) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

(13) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

(14) The term does not include the sale for resale of any service described in this section if the sale would otherwise constitute a "sale at retail" and "retail sale" under this section.

(15)(a) The term "sale at retail" or "retail sale" includes amounts charged, however labeled, to consumers to engage in any of the activities listed in this subsection (15)(a), including the furnishing of any associated equipment or, except as otherwise provided in this subsection, providing instruction in such activities, where such charges are not otherwise defined as a "sale at retail" or "retail sale" in this section:

(i)(A) Golf, including any variant in which either golf balls or golf clubs are used, such as miniature golf, hitting golf balls at a driving range, and golf simulators, and including fees charged by a golf course to a player for using his or her own cart. However, charges for golf instruction are not a retail sale, provided that if the instruction involves the use of a golfing facility that would otherwise require the payment of a fee, such as green fees or driving range fees, such fees, including the applicable retail sales tax, must be separately identified and charged by the golfing facility operator to the instructor or the person receiving the instruction.

(B) Notwithstanding (a)(i)(A) of this subsection (15) and except as otherwise provided in this subsection (15)(a)(i)(B), the term "sale at retail" or "retail sale" does not include amounts charged to participate in, or conduct, a golf tournament or other competitive event. However, amounts paid by event participants to the golf facility operator are retail sales under this subsection (15)(a)(i). Likewise, amounts paid by the event organizer to the golf facility are retail sales under this subsection (15)(a)(i), if such amounts vary based on the number of event participants;

(ii) Ballooning, hang gliding, indoor or outdoor sky diving, paragliding, parasailing, and similar activities;

(iii) Air hockey, billiards, pool, foosball, darts, shuffleboard, ping pong, and similar games;

(iv) Access to amusement park, theme park, and water park facilities, including but not limited to charges for admission and locker or cabana rentals. Discrete charges for rides or other attractions or entertainment that are in addition to the charge for admission are not a retail sale under this subsection (15)(a)(iv). For the purposes of this subsection, an amusement park or theme park is a location that provides permanently affixed amusement rides, games, and other entertainment, but does not include parks or zoos for which the primary purpose is the exhibition of wildlife, or fairs, carnivals, and festivals as defined in (b)(i) of this subsection;

(v) Batting cage activities;

(vi) Bowling, but not including competitive events, except that amounts paid by the event participants to the bowling alley operator are retail sales under this subsection (15)(a)(vi). Likewise, amounts paid by the event organizer to the operator of the bowling alley are retail sales under this subsection (15)(a)(vi), if such amounts vary based on the number of event participants;

(vii) Climbing on artificial climbing structures, whether indoors or outdoors;

(viii) Day trips for sightseeing purposes;

(ix) Bungee jumping, zip lining, and riding inside a ball, whether inflatable or otherwise;

(x) Horseback riding offered to the public, where the seller furnishes the horse to the buyer and providing instruction is not the primary focus of the activity, including guided rides, but not including therapeutic horseback riding provided by an instructor certified by a nonprofit organization that offers national or international certification for therapeutic riding instructors;

(xi) Fishing, including providing access to private fishing areas and charter or guided fishing, except that fishing contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xii) Guided hunting and hunting at game farms and shooting preserves, except that hunting contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xiii) Swimming, but only in respect to (A) recreational or fitness swimming that is open to the public, such as open swim, lap swimming, and special events like kids night out and pool parties during open swim time, and (B) pool parties for private events, such as birthdays, family gatherings, and employee outings. Fees for swimming lessons, to participate in swim meets and other competitions, or to join a swim team, club, or aquatic facility are not retail sales under this subsection (15)(a)(xiii);

(xiv) Go-karting, bumper cars, and other motorized activities where the seller provides the vehicle and the premises where the buyer will operate the vehicle;

(xv) Indoor or outdoor playground activities, such as inflatable bounce structures and other inflatables; mazes; trampolines; slides; ball pits; games of tag, including laser tag and soft-dart tag; and human gyroscope rides, regardless of whether such activities occur at the seller's place of business, but not including playground activities provided for children by a licensed child

day care center or licensed family day care provider as those terms are defined in RCW 43.216.010;

(xvi) Shooting sports and activities, such as target shooting, skeet, trap, sporting clays, "5" stand, and archery, but only in respect to discrete charges to members of the public to engage in these activities, but not including fees to enter a competitive event, instruction that is entirely or predominately classroom based, or to join or renew a membership at a club, range, or other facility;

(xvii) Paintball and airsoft activities;

(xviii) Skating, including ice skating, roller skating, and inline skating, but only in respect to discrete charges to members of the public to engage in skating activities, but not including skating lessons, competitive events, team activities, or fees to join or renew a membership at a skating facility, club, or other organization;

(xix) Nonmotorized snow sports and activities, such as downhill and cross-country skiing, snowboarding, ski jumping, sledding, snow tubing, snowshoeing, and similar snow sports and activities, whether engaged in outdoors or in an indoor facility with or without snow, but only in respect to discrete charges to the public for the use of land or facilities to engage in nonmotorized snow sports and activities, such as fees, however labeled, for the use of ski lifts and tows and daily or season passes for access to trails or other areas where nonmotorized snow sports and activities are conducted. However, fees for the following are not retail sales under this subsection (15)(a)(xix): (A) Instructional lessons; (B) permits issued by a governmental entity to park a vehicle on or access public lands; and (C) permits or leases granted by an owner of private timberland for recreational access to areas used primarily for growing and harvesting timber; and

(xx) Scuba diving; snorkeling; river rafting; surfing; kiteboarding; flyboarding; water slides; inflatables, such as water pillows, water trampolines, and water rollers; and similar water sports and activities.

(b) Notwithstanding anything to the contrary in this subsection (15), the term "sale at retail" or "retail sale" does not include charges:

(i) Made for admission to, and rides or attractions at, fairs, carnivals, and festivals. For the purposes of this subsection, fairs, carnivals, and festivals are events that do not exceed (~~twenty-one~~) 21 days and a majority of the amusement rides, if any, are not affixed to real property;

(ii) Made by an educational institution to its students and staff for activities defined as retail sales by (a)(i) through (xx) of this subsection. However, charges made by an educational institution to its alumni or other members of the general public for these activities are a retail sale under this subsection (15). For purposes of this subsection (15)(b)(ii), "educational institution" has the same meaning as in RCW 82.04.170;

(iii) Made by a vocational school for commercial diver training that is licensed by the workforce training and education coordinating board under chapter 28C.10 RCW; or

(iv) Made for day camps offered by a nonprofit organization or state or local governmental entity that provide youth not older than age (~~eighteen~~) 18, or that are focused on providing individuals with disabilities or mental illness, the opportunity to participate in a variety of supervised activities.

**Sec. 9 was vetoed. See message at end of chapter.*

**PART III
REAL ESTATE EXCISE TAX**

Sec. 10. RCW 82.46.010 and 2015 2nd sp.s. c 10 s 1 are each amended to read as follows:

(1) The legislative authority of any county or city must identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and must indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2)(a) The legislative authority of any county or any city may impose an excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. ~~((The))~~ Except as provided in subsection (8) of this section, the revenues from this tax must be used by any city or county with a population of ~~((five thousand))~~ 5,000 or less and any city or county that does not plan under RCW 36.70A.040 for any capital purpose identified in a capital improvements plan and local capital improvements, including those listed in RCW 35.43.040.

(b) ~~((After))~~ Except as provided in subsection (8) of this section, after April 30, 1992, revenues generated from the tax imposed under this subsection (2) in counties over ~~((five thousand))~~ 5,000 population and cities over ~~((five thousand))~~ 5,000 population that are required or choose to plan under RCW 36.70A.040 must be used solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan and housing relocation assistance under RCW 59.18.440 and 59.18.450. However, revenues (i) pledged by such counties and cities to debt retirement prior to April 30, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (ii) committed prior to April 30, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed.

(3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the legislative authority of any county or any city may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-half of one percent of the selling price.

(4) Taxes imposed under this section must be collected from persons who are taxable by the state under chapter 82.45 RCW upon the occurrence of any taxable event within the unincorporated areas of the county or within the corporate limits of the city, as the case may be.

(5) Taxes imposed under this section must comply with all applicable rules, regulations, laws, and court decisions regarding real estate excise taxes as imposed by the state under chapter 82.45 RCW.

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

(a) "City" means any city or town.

(b) "Capital project" means those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets; roads; highways;

sidewalks; street and road lighting systems; traffic signals; bridges; domestic water systems; storm and sanitary sewer systems; parks; recreational facilities; law enforcement facilities; fire protection facilities; trails; libraries; administrative facilities; judicial facilities; river flood control projects; waterway flood control projects by those jurisdictions that, prior to June 11, 1992, have expended funds derived from the tax authorized by this section for such purposes; until December 31, 1995, housing projects for those jurisdictions that, prior to June 11, 1992, have expended or committed to expend funds derived from the tax authorized by this section or the tax authorized by RCW 82.46.035 for such purposes; and technology infrastructure that is integral to the capital project.

(7) From July 22, 2011, until December 31, 2016, a city or county may use the greater of (~~one hundred thousand dollars~~) \$100,000 or (~~thirty-five~~) 35 percent of available funds under this section, but not to exceed (~~one million dollars~~) \$1,000,000 per year, for the operations and maintenance of existing capital projects as defined in subsection (6) of this section.

(8) After the effective date of this section through December 31, 2023, a city or county may use the greater of \$100,000 or 35 percent of available funds under this section for the operation of, maintenance of, and service support for, existing capital projects, including the provision of services to residents of affordable housing or shelter units.

Sec. 11. RCW 82.46.015 and 2016 c 138 s 3 are each amended to read as follows:

(1) (~~(A)~~) After the effective date of this section through December 31, 2023, a city or county may use the greater of \$100,000 or 35 percent of available funds from revenues collected under RCW 82.46.010 for the maintenance of, operation of, and service support for, existing capital projects, as defined in RCW 82.46.010, and including the provision of services to residents of affordable housing or shelter units.

(2) After December 31, 2023, a city or county that meets the requirements of subsection (~~((2))~~) (3) of this section may use the greater of (~~one hundred thousand dollars~~) \$100,000 or (~~twenty-five~~) 25 percent of available funds, but not to exceed (~~one million dollars~~) \$1,000,000 per year, from revenues collected under RCW 82.46.010 for the maintenance of capital projects, as defined in RCW 82.46.010(~~((6)(b))~~).

(~~((2))~~) (3) A city or county may use revenues pursuant to subsection (~~((4))~~) (2) of this section if:

(a) The city or county prepares a written report demonstrating that it has or will have adequate funding from all sources of public funding to pay for all capital projects, as defined in RCW 82.46.010, identified in its capital facilities plan for the succeeding two-year period. Cities or counties not required to prepare a capital facilities plan may satisfy this provision by using a document that, at a minimum, identifies capital project needs and available public funding sources for the succeeding two-year period; and

(b)(i) The city or county has not enacted, after June 9, 2016: Any requirement on the listing or sale of real property; or any requirement on landlords, at the time of executing a lease, to perform or provide physical improvements or modifications to real property or fixtures, except if necessary to address an immediate threat to health or safety; or

(ii) Any local requirement adopted by the city or county under (b)(i) of this subsection is: Specifically authorized by RCW 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW; specifically authorized by other state or federal law; or a seller or landlord disclosure requirement pursuant to RCW 64.06.080.

~~((3))~~ (4) The report prepared under subsection ~~((2))~~ (3)(a) of this section must: (a) Include information necessary to determine compliance with the requirements of subsection ~~((2))~~ (3)(a) of this section; (b) identify how revenues collected under RCW 82.46.010 were used by the city or county during the prior two-year period; (c) identify how funds authorized under subsection ~~((1))~~ (2) of this section will be used during the succeeding two-year period; and (d) identify what percentage of funding for capital projects within the city or county is attributable to revenues under RCW 82.46.010 compared to all other sources of capital project funding. The city or county must prepare and adopt the report as part of its regular, public budget process.

~~((4))~~ (5) The authority to use funds as authorized in this section is in addition to the authority to use funds pursuant to RCW 82.46.010(7), which remains in effect through December 31, 2016.

~~((5))~~ (6) For purposes of this section, "maintenance" means the use of funds for labor and materials that will preserve, prevent the decline of, or extend the useful life of a capital project. "Maintenance" does not include labor or material costs for routine operations of a capital project.

Sec. 12. RCW 82.46.035 and 2019 c 73 s 2 are each amended to read as follows:

(1) ~~(The)~~ Except for revenues used after the effective date of this section through December 31, 2023, as provided in subsection (3) of this section, the legislative authority of any county or city must identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and must indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2) The legislative authority of any county or any city that plans under RCW 36.70A.040(1) may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. Any county choosing to plan under RCW 36.70A.040(2) and any city within such a county may only adopt an ordinance imposing the excise tax authorized by this section if the ordinance is first authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters.

(3) Revenues generated from the tax imposed under subsection (2) of this section must be used by such counties and cities solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan, except that the greater of \$100,000 or 35 percent of revenues may additionally be used for the operation of, maintenance of, and service support for, existing capital projects after the effective date of this section through December 31, 2023. However, revenues (a) pledged by such counties and cities to debt

retirement prior to March 1, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (b) committed prior to March 1, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed.

(4) Revenues generated by the tax imposed by this section must be deposited in a separate account after December 31, 2023.

(5) As used in this section, "city" means any city or town and "capital project" means those public works projects of a local government for:

(a) Planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems;

(b) Planning, construction, reconstruction, repair, rehabilitation, or improvement of parks; and

(c) Until January 1, 2026, planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of facilities for those experiencing homelessness and affordable housing projects.

(6) A county or city may use the greater of (~~one hundred thousand dollars~~) \$100,000 or (~~twenty-five~~) 25 percent of available funds, but not to exceed (~~one million dollars~~) \$1,000,000, for capital projects as defined in subsection (5)(c) of this section. The limits in this subsection do not apply to any county or city that used revenue under this section for the acquisition, construction, improvement, or rehabilitation of facilities to provide housing for the homeless prior to June 30, 2019.

(7) A county or city using funds for uses in subsection (5)(c) of this section must document in its plan under RCW 36.70A.070(3) that it has funds during the next two years for capital projects in subsection (5)(a) of this section.

(8) When the governor files a notice of noncompliance under RCW 36.70A.340 with the secretary of state and the appropriate county or city, the county or city's authority to impose the additional excise tax under this section is temporarily rescinded until the governor files a subsequent notice rescinding the notice of noncompliance.

Sec. 13. RCW 82.46.037 and 2019 c 73 s 3 are each amended to read as follows:

(1) A city or county that meets the requirements of subsection (2) of this section may use the greater of (~~one hundred thousand dollars~~) \$100,000 or (~~twenty-five~~) 25 percent of available funds, but not to exceed (~~one million dollars~~) \$1,000,000 per year, except for the period from the effective date of this section through December 31, 2023, when the greater of \$100,000 or 35 percent may be used from revenues collected under RCW 82.46.035 for:

(a) The maintenance of capital projects, as defined in RCW 82.46.035(5); (~~and~~)

(b) The planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, improvement, or maintenance of capital projects as defined in RCW 82.46.010(6)(b) that are not also included within the definition of capital projects in RCW 82.46.035(5); and

(c) The operation of, and service support for, existing capital projects as included in the definition of capital project in RCW 82.46.035(5) and

82.46.010(6)(b), from the effective date of this section through December 31, 2023.

(2) A city or county may use revenues pursuant to subsection (1) of this section after the effective date of this section through December 31, 2023. Thereafter, a city or county may use revenues pursuant to subsection (1) of this section if:

(a) The city or county prepares a written report demonstrating that it has or will have adequate funding from all sources of public funding to pay for all capital projects, as defined in RCW 82.46.035(5), identified in its capital facilities plan for the succeeding two-year period; and

(b)(i) The city or county has not enacted, after June 9, 2016, any requirement on the listing or sale of real property; or any requirement on landlords, at the time of executing a lease, to perform or provide physical improvements or modifications to real property or fixtures, except if necessary to address an immediate threat to health or safety;

(ii) Any local requirement adopted by the city or county under (b)(i) of this subsection is: Specifically authorized by RCW 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW; specifically authorized by other state or federal law; or a seller or landlord disclosure requirement pursuant to RCW 64.06.080; or

(iii) For a city or county using funds under subsection (1)(b) of this section, the requirements of this subsection apply, except that the date for such enactment under (b)(i) of this subsection is ninety days after October 19, 2017.

(3) The report prepared under subsection (2)(a) of this section must: (a) Include information necessary to determine compliance with the requirements of subsection (2)(a) of this section; (b) identify how revenues collected under RCW 82.46.035 were used by the city or county during the prior two-year period; (c) identify how funds authorized under subsection (1) of this section will be used during the succeeding two-year period; and (d) identify what percentage of funding for capital projects within the city or county is attributable to revenues under RCW 82.46.035 compared to all other sources of capital project funding. The city or county must prepare and adopt the report as part of its regular, public budget process.

(4) For purposes of this section, "maintenance" means the use of funds for labor and materials that will preserve, prevent the decline of, or extend the useful life of a capital project. "Maintenance" does not include labor or material costs for routine operations of a capital project.

PART IV LEVY FLEXIBILITY

Sec. 14. RCW 84.55.050 and 2018 c 46 s 3 are each amended to read as follows:

(1) Subject to any otherwise applicable statutory dollar rate limitations, regular property taxes may be levied by or for a taxing district in an amount exceeding the limitations provided for in this chapter if such levy is authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters. Any election held pursuant to this section shall be held not more than (~~twelve~~) 12 months prior to the date on

which the proposed levy is to be made, except as provided in subsection (2) of this section. The ballot of the proposition shall state the dollar rate proposed and shall clearly state the conditions, if any, which are applicable under subsection (4) of this section.

(2)(a) Subject to statutory dollar limitations, a proposition placed before the voters under this section may authorize annual increases in levies for multiple consecutive years, up to six consecutive years, during which period each year's authorized maximum legal levy shall be used as the base upon which an increased levy limit for the succeeding year is computed, but the ballot proposition must state the dollar rate proposed only for the first year of the consecutive years and must state the limit factor, or a specified index to be used for determining a limit factor, such as the consumer price index, which need not be the same for all years, by which the regular tax levy for the district may be increased in each of the subsequent consecutive years. Elections for this purpose must be held at a primary or general election. The title of each ballot measure must state the limited purposes for which the proposed annual increases during the specified period of up to six consecutive years shall be used.

(b)(i) Except as otherwise provided in this subsection (2)(b), funds raised by a levy under this subsection may not supplant existing funds used for the limited purpose specified in the ballot title. For purposes of this subsection, existing funds means the actual operating expenditures for the calendar year in which the ballot measure is approved by voters. Actual operating expenditures excludes lost federal funds, lost or expired state grants or loans, extraordinary events not likely to reoccur, changes in contract provisions beyond the control of the taxing district receiving the services, and major nonrecurring capital expenditures.

(ii) The supplanting limitations in (b)(i) of this subsection do not apply to levies approved by the voters in calendar years 2009, 2010, ~~((and)) 2011, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022,~~ in any county with a population of ~~((one million five hundred thousand)) 1,500,000~~ or more. This subsection (2)(b)(ii) only applies to levies approved by the voters after July 26, 2009.

(iii) The supplanting limitations in (b)(i) of this subsection do not apply to levies approved by the voters in calendar year 2009 and thereafter in any county with a population less than ~~((one million five hundred thousand)) 1,500,000.~~ This subsection (2)(b)(iii) only applies to levies approved by the voters after July 26, 2009.

(3) After a levy authorized pursuant to this section is made, the dollar amount of such levy may not be used for the purpose of computing the limitations for subsequent levies provided for in this chapter, unless the ballot proposition expressly states that the levy made under this section will be used for this purpose.

(4) If expressly stated, a proposition placed before the voters under subsection (1) or (2) of this section may:

(a) Use the dollar amount of a levy under subsection (1) of this section, or the dollar amount of the final levy under subsection (2) of this section, for the purpose of computing the limitations for subsequent levies provided for in this chapter;

(b) Limit the period for which the increased levy is to be made under (a) of this subsection;

(c) Limit the purpose for which the increased levy is to be made under (a) of this subsection, but if the limited purpose includes making redemption payments on bonds;

(i) For the county in which the state capitol is located, the period for which the increased levies are made may not exceed ~~((twenty-five))~~ 25 years; and

(ii) For districts other than a district under (c)(i) of this subsection, the period for which the increased levies are made may not exceed nine years;

(d) Set the levy or levies at a rate less than the maximum rate allowed for the district;

(e) Provide that the exemption authorized by RCW 84.36.381 will apply to the levy of any additional regular property taxes authorized by voters; or

(f) Include any combination of the conditions in this subsection.

(5) Except as otherwise expressly stated in an approved ballot measure under this section, subsequent levies shall be computed as if:

(a) The proposition under this section had not been approved; and

(b) The taxing district had made levies at the maximum rates which would otherwise have been allowed under this chapter during the years levies were made under the proposition.

PART V

UTILITY LIEN FLEXIBILITY

Sec. 15. RCW 35.21.290 and 2010 c 135 s 2 are each amended to read as follows:

(1) Except as provided in RCW 35.21.217(4) and in subsection (2) of this section, cities and towns owning their own waterworks, or electric light or power plants shall have a lien against the premises to which water, electric light, or power services were furnished for four months charges therefor due or to become due, but not for any charges more than four months past due.

(2) The lien provided for in subsection (1) of this section may apply to charges more than four months past due, if the city or town has been unable to pursue collection or a lien against the premises to which water, electric light, or power services were furnished due to an emergency declaration by the governor. A lien may be imposed after the expiration of the emergency declaration that prevented collection. The period in which the lien may be imposed is the later of:

(a) Three months from the expiration of the emergency declaration preventing collection or a lien; or

(b) Three months of the ratepayer's failure to abide by the terms of an agreed payment plan, if the payment plan for past due charges would have allowed the ratepayer to repay the past due charges over a period of six months or more.

Sec. 16. RCW 35.67.210 and 1965 c 7 s 35.67.210 are each amended to read as follows:

~~((The))~~ (1) Except as provided for in subsection (2) of this section, the sewerage lien shall be effective for a total of not to exceed six months' delinquent charges without the necessity of any writing or recording. In order to make such lien effective for more than six months' charges the city or town treasurer, clerk, or official charged with the administration of the affairs of the utility shall cause to be filed for record in the office of the county auditor of the county in which such city or town is located, a notice in substantially the following form:

"Sewerage lien notice

City (or town) of

vs.

..... reputed owner.

Notice is hereby given that the city (or town) of has and claims a lien for sewer charges against the following described premises situated in county, Washington, to wit:

(here insert legal description of premises)

Said lien is claimed for not exceeding six months such charges and interest now delinquent, amount to \$....., and is also claimed for future sewerage charges against said premises.

Dated

City (or town) of

By "

The lien notice may be signed by the city or town treasurer or clerk or other official in charge of the administration of the utility. The lien notice shall be recorded as prescribed by law for the recording of mechanics' liens.

(2) A sewage lien may exceed six months' delinquent charges without the necessity of any writing or recording if collection of charges was impacted by the declaration of an emergency by the governor. In such circumstances, a lien may be filed for all charges due during the period covered by the declaration and may be effective for six months after the expiration of the declaration of the emergency.

***NEW SECTION. Sec. 17.** Section 9 of this act takes effect July 1, 2022.

**Sec. 17 was vetoed. See message at end of chapter.*

***NEW SECTION. Sec. 18.** Section 8 of this act expires July 1, 2022.

**Sec. 18 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 19. Except for section 9 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 25, 2021.

Passed by the Senate April 11, 2021.

Approved by the Governor May 13, 2021, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 9, 17, and 18, Engrossed Second Substitute House Bill No. 1069 entitled:

"AN ACT Relating to local government fiscal flexibility."

Sections 8 and 9 of this bill amend different versions of RCW 82.04.050, and Sections 17 and 18 establish different effective dates for Sections 8 and 9. Two other bills enacted by the Legislature this session, Substitute House Bill 1095 and Engrossed Senate Bill 5220, contain technical amendments to the same statute that would conflict with Sections 9, 17 and 18 of this bill. Therefore, I am vetoing Sections 9, 17 and 18 to avoid any confusion that may arise from these double amendments. These vetoes will not disturb the substantive provisions of this bill.

In addition, Sections 15 and 16 extend the timeframe for a city-owned utility to issue a tax lien related to unpaid utility fees. This is a difficult time for many Washingtonians, therefore I urge utility providers and local governments to use this power sparingly and as a last resort. Local governments should utilize resources provided by the federal government to cover customer utility bills that are in arrears before relying upon their lien authority. Providers should work with customers by providing payment assistance programs and identifying solutions to prevent service disconnections following the current utility shutoff moratorium. I urge members of the public who need help paying their utility bills to contact their utilities and enroll in their assistance programs.

For these reasons I have vetoed Sections 9, 17, and 18 of Engrossed Second Substitute House Bill No. 1069.

With the exception of Sections 9, 17, and 18, Engrossed Second Substitute House Bill No. 1069 is approved."

CHAPTER 297

[Substitute House Bill 1155]

EMERGENCY COMMUNICATION SYSTEMS AND FACILITIES—LOCAL SALES AND USE TAX—INTERLOCAL AGREEMENTS

AN ACT Relating to sales and use tax for emergency communication systems and facilities; and amending RCW 82.14.420.

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

Sec. 1. RCW 82.14.420 and 2019 c 281 s 1 are each amended to read as follows:

(1) A county legislative authority may submit an authorizing proposition to the county voters, and if the proposition is approved by a majority of persons voting, fix and impose a sales and use tax in accordance with the terms of this chapter for the purposes designated in subsection (3) of this section.

(2) The tax authorized in this section is in addition to any 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 two-tenths of one percent of the selling price in the case of sales tax, or value of the article used, in the case of a use tax.

(3) Moneys received from any tax imposed under this section must be used solely for the purpose of providing funds for costs associated with financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, reequipping, and improvement of emergency communication systems and facilities.

(4) Counties are authorized to develop joint ventures to collocate emergency communication systems and facilities.

(5) Prior to submitting the tax authorization in subsection (2) of this section to the voters in a county that provides emergency communication services to a governmental agency pursuant to a contract, the parties to the contract must review and negotiate or affirm the terms of the contract.

~~(6) ((Prior to submitting the tax authorized in subsection (2) of this section to the voters, a))~~ (a) A county imposing the tax authorized in subsection (2) of this section, with a population of more than one million five hundred thousand, in which any city over fifty thousand operates emergency communication systems and facilities either independently or as a member of a regional emergency communication agency must enter into an interlocal agreement with the city either independently or as a member of a regional emergency communications agency to determine distribution of the revenue provided in this section as follows:

(i) Within 12 months of meeting the population thresholds in this subsection (6) or within 12 months of the effective date of this section, whichever is later; or

(ii) Prior to submitting the tax to the voters, for counties not currently imposing the tax.

(b) City representation in the interlocal agreement process must include a representative from the mayor's office and the city council president. In a city that operates under a council-manager form of government under chapter 35.18 or 35A.13 RCW, city representation must include the city manager or the city manager's designee.

(c) The time frame provided in (a)(i) of this subsection may be extended for an additional three months with the agreement of the county and the city.

~~(7) ((Prior to submitting the tax authorized in subsection (2) of this section to the voters, a))~~ (a) A county imposing the tax authorized in subsection (2) of this section, with a population of more than five hundred thousand but less than one million five hundred thousand, in which any city over fifty thousand operates emergency communication systems and facilities must enter into an interlocal agreement with the city to determine distribution of the revenue provided in this section as follows:

(i) Within 12 months of meeting the population thresholds in this subsection (7) or within 12 months of the effective date of this section, whichever is later; or

(ii) Prior to submitting the tax to the voters, for counties not currently imposing the tax.

(b) The time frame established in (a)(i) of this subsection may be extended for an additional three months with the agreement of the county and the city.

(8) If a county and a city that are required to enter into an interlocal agreement under subsection (6) or (7) of this section fail to enter into an interlocal agreement within the allotted time frame or the extended time frame as provided in subsection (6)(a)(i) or (c) or (7)(a)(i) or (b) of this section, then the city or county may seek equitable apportionment of the tax authorized under this section in the county's superior court. Equitable apportionment must be provided retroactively beginning from when the county and city met the population thresholds under subsection (6) or (7) of this section or the effective date of this section, whichever is later.

(9) A county imposing the tax authorized under this section on July 28, 2019, must submit an authorizing proposition to the voters as provided under this section to increase the rate of tax.

~~((9))~~ (10) The Washington state patrol must enter into an intergovernmental agreement, with a county, city, or regional communications agency that operates emergency communications systems, for purposes of interoperable communications, if the following conditions are met:

- (a) The intergovernmental agreement is requested by the county, city, or regional communications agency for this purpose; and
- (b) The terms and conditions are mutually agreeable.

Passed by the House April 14, 2021.

Passed by the Senate April 5, 2021.

Approved by the Governor May 13, 2021.

Filed in Office of Secretary of State May 13, 2021.

CHAPTER 298

[Second Substitute House Bill 1168]

FOREST HEALTH AND WILDFIRES—VARIOUS PROVISIONS

AN ACT Relating to long-term forest health and the reduction of wildfire dangers; amending RCW 76.06.200, 76.06.150, and 72.64.160; adding new sections to chapter 76.04 RCW; adding a new section to chapter 76.13 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. FINDINGS AND DETERMINATIONS. (1) Over the last decade, forestland and rangeland wildfires have grown larger and increased in intensity and destructiveness throughout Washington state. The annual acres burned in our state illustrates this alarming trend. In the 1990s, an average of 86,000 acres burned annually. In the 2000s, the average annual acres burned increased to 189,000. In the last five years, the annual average grew to more than 488,000 acres burned. This trajectory of escalation continued last year, with wildfires burning more than 812,000 acres.

(2) Recent wildfires have devastated state, federal, tribal, and private lands, destroyed homes and property, and taken lives. These fires have also released greenhouse gases, destroyed critical fish and wildlife habitat, filled our skies with harmful smoke, polluted our waters, damaged our economy, increased the risk of flooding and landslides, created a critical need for reforestation, and threatened the natural resources needed for essential industries and rural economies.

(3) Catastrophic wildfires have significant negative impacts on fish and wildlife habitat, including the loss and degradation of places to shelter and feed, water quality and quantity, and soil nutrients. Washington's fish and wildlife are part of a fire-adapted landscape, but catastrophic wildfires threaten their health and recovery.

(4) The increase in these uncharacteristic wildfires are the result of a combination of climate change-driven drought, hotter temperature, and windstorms; human development patterns and land use planning and activities; and where uncharacteristic fires occur in forests, by past fire suppression and departures from native ecosystem structure and function. Uncharacteristic wildfire risk is addressed through scientifically informed landscape-level treatments designed to restore forest ecosystem and watershed resilience.

(5) Wildfires result in significant greenhouse gas emissions. Wildfires have become one of the largest sources of black carbon in the last five years. From 2014-2018, wildfires in Washington state generated 39.2 million metric tons of carbon, the equivalent of more than 8.5 million cars on the road a year. In 2015,

when 1.13 million acres burned in Washington, wildfires were the second largest source of greenhouse gas emissions, second only to transportation.

(6) The legislature has recognized our forests, as well as the manufacturing and utilization of wood products, as a natural carbon solution and critical component of our state's carbon reduction strategy pursuant to chapter 120, Laws of 2020. Uncharacteristic wildfires threaten the ability of our forests to sequester carbon, and they threaten the stability and long-term viability of our forest products industry.

(7) The Washington state department of natural resources' 20-year forest health strategic plan and climate risk assessment finds that carbon emissions from wildfires are anticipated to increase if there is no change in forest management practices. Unless the state significantly increases active forest management across land ownerships to reduce the risk and intensity of wildfires, wildfire emissions will erode efforts to achieve our state's greenhouse gas emissions reduction goals. In addition to reducing fuel loads, many effective forest health treatments retain and restore older, large fire-resilient trees across the landscape that play an important role in carbon sequestration, enhancing climate resilience and ecosystem services, and mitigating climate change.

(8) Wildfires inflict huge costs to the state budget, the budgets of partner agencies, and our economy. From 2014-2019, agencies in Washington annually spent nearly \$150 million fighting wildfires. In 2015, firefighting costs were more than \$342 million. In 2019, firefighting costs were more than \$172 million. And suppression costs are only a small portion of the full economic impact. According to a 2018 report by the nonprofit headwater's economics, suppression costs account for only nine percent of the total cost of wildfires when factoring in disaster recovery, lost business, lost infrastructure, and timber damage, and public health impacts.

(9) Over one-half of Washington is forested, providing significant environmental and economic value. Over \$4,900,000,000 in wages and \$200,000,000 in taxes are paid by the forest products' sector each year. Opportunities exist to boost our rural economies through wildfire preparation and preparedness that maintain and attract private sector investments and employment in rural communities.

(10) Wildfires are significant threats to life and property. Over the last five years, wildfires in Washington have taken five lives, including four firefighters and the life of a one-year old boy. In 2020 alone, 298 homes were destroyed by wildfires in our state. More than 1,100 homes have been destroyed this decade. Communities in every corner of Washington have felt the impact and devastation of flames and smoke. In 2020, the town of Malden, Washington was forever scarred by rangeland wildfire. Approximately 80 percent of the town's structures burned down in the Babb Road fire, including the city hall, post office, and fire station.

(11) Wildfire smoke has significant negative impacts on public health. For the second time in the last three years, Washington state had the worst air quality in the world due to wildfires. Communities in every corner of the state felt the impact. Exposure to particulate matter in wildfire smoke has been associated with a wide range of damaging health effects. The particulates in this smoke make those breathing the air wheeze, cough, shorten their breath, and experience sore eyes and throats, diminishing health and quality of life. Other adverse

health outcomes are more severe, including increases in asthma-related hospitalizations, chronic and acute respiratory and cardiovascular health problems, and premature death.

(12) Historical forest management, legacy wildfire suppression responses, and a rapidly changing climate have increased the risk of catastrophic wildfires throughout the state. It is the policy of the state to encourage prudent and responsible forest resource management to maintain the health of forests and ecosystems in Washington state. Increasing the pace and scale of forest restoration through fuel reduction, thinning, and the use of prescribed fire on federal, state, tribal, and private lands pursuant to the 20-year forest health strategic plan, the wildland fire protection 10-year strategic plan, and RCW 79.10.520 will reduce the risk of catastrophic wildfires.

(13) In 2020, more than 1,300,000 acres of national forest system land in eastern Washington were considered in need of treatments to restore forest health and reduce the risk of wildfire hazard potential. Many of these lands are adjacent to populated communities, private lands, and state trust lands.

(14) In 2020, 166,000 acres of department of natural resources' land and 74,000 acres of other state-owned lands in eastern Washington were in need of forest health treatment. These forestlands provide critical fish and wildlife habitat, natural and cultural resources, recreation, raw materials for the forest industry, and funding for counties and schools. From 2011-2020, 102,700 forested acres of department of natural resources' managed trust lands have burned.

(15) Tribal lands and communities have been significantly impacted by wildfires and unhealthy forests. Approximately 494,000 acres of tribal lands in eastern Washington need forest health treatments. These forestlands provide critical fish and wildlife habitat, natural and cultural resources, and economic opportunities.

(16) Washington state has nearly eight million acres of private forestlands. Forested acres are declining statewide with a loss of 394,000 acres between 2007 and 2019. Small forestland owners account for 15 percent of total forest acres. Small forestland owner forested acres declined 3.7 percent from 2,990,000 acres in 2007 to 2,880,000 million acres in 2019. The number of small forestland owners increased 8.5 percent from 201,000 in 2007 to 218,000 in 2019. The number of small forestland owner parcels increased 2.1 percent from 256,500 to 261,800. This rapid land use change creates significant challenges for implementing forest health and wildfire response actions in the wildland urban interface. In eastern Washington alone, approximately 288,000 acres owned by small forestland owners are in need of immediate forest health treatment. These forestlands provide critical raw materials for the forest industry, rural economic opportunities, fish and wildlife habitat, cultural resources, and recreation. A coordinated interagency response is needed to address the multifaceted challenge posed by increasing parcelization, forest fragmentation, loss of economic viability, and changes in landowner assistance needs.

(17) The legislature finds that increasing the pace and scale of science-based forest health activities to reduce hazardous fuels and restore fire resilient forests, including through mechanical thinning and prescribed burning, on federal, state, tribal, and private lands, will reduce the risk and severity of wildfires, protect cultural and archaeological resources, improve fish and wildlife habitat, expand

recreational opportunities, protect air and water quality, create rural economic opportunities, provide critical wood products, and increase long-term carbon sequestration on our natural resource lands.

(18) Increased development in the wildland urban interface has also increased the number of people living in areas that are at risk of wildfire. In Washington, over 2,000,000 homes are currently at risk of wildfire. Communities and homeowners can take actions that reduce the risk of loss in the event of wildfire including, but not limited to, home hardening, creating defensible space, and building potential control lines or strategic fuel breaks.

(19) Long-term, sustainable investment in wildfire response, forest restoration, and community resilience is of utmost importance to the health and safety of our environment, our economy, our communities, and the well-being of every resident.

(20) It is the intent of the legislature to take immediate action to fully fund the wildland fire protection 10-year strategic plan. Strategies to accomplish these goals include, but are not limited to:

(a) Upgrading our capability to attack wildfires with critical air and ground resources;

(b) Providing needed wildfire resources to state wildfire response and local fire service districts;

(c) Working with each state utility, local publicly owned electric utility, and electrical cooperative to reduce wildfire risk and develop consistent approaches and shared data related to fire prevention, safety, vegetation management, and energy distribution systems; and

(d) Improving wildfire detection in areas at risk of wildfire through new technologies and equipment.

(21) Furthermore, it is the intent of the legislature to take immediate action to increase the pace and scale of forest management across different land ownerships and fully fund the 20-year forest health strategic plan and activities developed to facilitate implementation of the Washington state forest action plan. Strategies to accomplish these goals include, but are not limited to:

(a) Restoring to health a minimum of 1,250,000 acres of forestland in need of immediate action to become more resilient and improve watershed health;

(b) Increasing prescribed fire and other fuel reduction projects through proven forestry practices and the operation of prescribed fire crews;

(c) Establishing potential control lines and strategic fuel breaks around communities with high wildfire risk;

(d) Increasing funding for the small forestland owner office for technical assistance and support for small forestland owners and funding an integrated small forestland owner forest health program in support of extending management and control of wildfire from homes through the wildland urban interface to small forestland owner holdings; and

(e) Monitoring forest health conditions and effectiveness of treatments throughout the state, including ecological function and reducing catastrophic wildfires.

(22) Furthermore, it is the intent of the legislature to take immediate action to help communities become more resilient to wildfire. Strategies to accomplish these goals include, but are not limited to:

(a) Increasing funding for cost share programs for home hardening, fuels reduction, and community resilience programs in communities at risk of wildfire;

(b) Reducing wildfire risk to wildland urban interfaces; and

(c) Ensuring our state's most vulnerable populations are not disproportionately burdened by the impact and consequences of wildfire.

(23) The legislature intends to provide \$125,000,000 per biennium over the next four biennia for a total of \$500,000,000 and that these investments will help protect the state's people, environment, and economy.

NEW SECTION. Sec. 2. WILDFIRE RESPONSE, FOREST RESTORATION, AND COMMUNITY RESILIENCE ACCOUNT. (1) The wildfire response, forest restoration, and community resilience account is created in the state treasury. All receipts from moneys directed to the account must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for carrying out the purposes of this act and for no other purposes.

(2) Expenditures from the account may be made to state agencies, federally recognized tribes, local governments, fire and conservation districts, nonprofit organizations, forest collaboratives, and small forestland owners, consistent with the 20-year forest health strategic plan, the wildland fire protection 10-year strategic plan, and the Washington state forest action plan.

(3) The wildfire response, forest restoration, and community resilience account may only be used to monitor, track, and implement the following purposes:

(a) Fire preparedness activities consistent with the goals contained in the state's wildland fire protection 10-year strategic plan including, but not limited to, funding for firefighting capacity and investments in ground and aerial firefighting resources, equipment, and technology, and the development and implementation of a wildland fire aviation support plan in order to expand and improve the effectiveness and cost-efficiency of the department's wildland fire aviation program;

(b) Fire prevention activities to restore and improve forest health and reduce vulnerability to drought, insect infestation, disease, and other threats to healthy forests including, but not limited to, silvicultural treatments, seedling development, thinning and prescribed fire, and postfire recovery activities to stabilize and prevent unacceptable degradation to natural and cultural resources and minimize threats to life and property resulting from the effects of a wildfire. Funding priority under this subsection must be given to programs, activities, or projects aligned with the 20-year forest health strategic plan, the wildland fire protection 10-year strategic plan, and the Washington state forest action plan across any combination of local, state, federal, tribal, and private ownerships;

(c) Fire protection activities for homes, properties, communities, and values at risk including, but not limited to: Potential control lines or strategic fuel breaks in forests and rangelands near communities; improved warning and communications systems to prepare for wildfires; increased engagement with non-English speaking communities in their home language for community preparedness; and the national fire protection association's fire wise USA and the fire-adapted communities network programs to help communities take action before wildfires.

(4) Appropriations for forest health activities funded by the wildfire response, forest restoration, and community resilience account shall not be less than 25 percent of the biennial appropriated funding.

(5) Appropriations for community resilience activities funded by the wildfire response, forest restoration, and community resilience account shall not be less than 15 percent of the biennial appropriated funding.

(6) Funding may not be used for emergency fire costs or suppression costs as defined in RCW 76.04.005.

(7) To the maximum extent possible, workforce development investments from the wildfire response, forest restoration, and community resilience account should prioritize historically marginalized, underrepresented, rural, and low-income communities.

(8) Any expenditures from the wildfire response, forest restoration, and community resilience account for forest health treatments on federal lands must be additive to the baseline accomplishments and outputs already funded through the federal government and outlined in the annual work plans of the United States forest service, bureau of land management, the national park service, and/or the United States fish and wildlife service.

(9) The department may solicit the forest health advisory committee established in RCW 76.06.200 and wildland fire advisory committee established in RCW 76.04.179 to provide recommendations for investments under this section. In assessing investments and developing recommendations for communities that will be impacted based on ecological, public infrastructure, and life safety needs as set forth in the 20-year forest health strategic plan and the wildland fire protection 10-year strategic plan, the forest health advisory committee and wildland fire advisory committee must use environmental justice or equity focused tools, such as the Washington tracking network's environmental health disparities tool to identify highly impacted communities. This identification must be used as a factor in determining recommendations for investments under this section. "Highly impacted communities" has the same meaning as defined in RCW 19.405.020.

(10) To the maximum extent practicable and where consistent with the 20-year forest health strategic plan, the wildland fire protection 10-year strategic plan, or the Washington state forest action plan and landowner objectives, forest health treatments funded through the wildfire response, forest restoration, and community resilience account shall seek to utilize the value of any merchantable materials to help offset treatment costs.

NEW SECTION. Sec. 3. TRANSPARENCY AND ACCOUNTABILITY.

(1) By December 1st of each even-numbered year, and in compliance with RCW 43.01.036, the department must report to the governor and legislature on the following:

(a) The type and amount of the expenditures made, by fiscal year, and for what purpose, from the wildfire response, forest restoration, and community resilience account created in section 2 of this act;

(b) The amount of unexpended and unobligated funds in the wildfire response, forest restoration, and community resilience account and recommendations for the disbursement to local districts;

(c) Progress on implementation of the wildland fire protection 10-year strategic plan including, but not limited to, how investments are reducing

human-caused wildfire starts, lowering the size and scale and geography of catastrophic wildfires, reducing the communities, landscapes, and population at risk, and creating resilient landscapes and communities;

(d) Progress on implementation of the 20-year forest health strategic plan as established through the forest health assessment and treatment framework pursuant to RCW 76.06.200 including, but not limited to: Assessment of fire prone lands and communities that are in need of forest health treatments; forest health treatments prioritized and conducted by landowner type, geography, and risk level; estimated value of any merchantable materials from forest health treatments; and number of acres treated by treatment type, including the use of prescribed fire;

(e) Progress on developing markets for forest residuals and biomass generated from forest health treatments.

(2) The department must include recommendations on any adjustments that may be necessary or advisable to the mechanism of funding dispensation as created under this act.

(3) The report required in this section should support existing department assessments pursuant to RCW 79.10.530 and 76.06.200.

(4)(a)(i) Prior to the determination of the 2025-2034 sustainable harvest calculation as required by RCW 79.10.320, the department must hire an independent third-party contractor to assist it in updating its forest inventory by increasing the intensity of forest sample plots on all forestlands over the next two biennium. The department's sustainable harvest calculation technical advisory committee must be involved in the design, development, and implementation of this forest inventory update.

(ii) For purposes of this subsection, "forest inventory" means the collection of sample data to estimate a range of forest attributes including, but not limited to, standing volume, stored carbon, habitat attributes, age classes, tree species, and other inventory attributes, including information needed to estimate rates of tree growth and associated carbon sequestration on department lands.

(iii) The department's sustainable harvest calculation technical advisory committee must bring forward recommendations for regular maintenance and updates to the forest inventory on a ten-year basis.

(b) Prior to the determination of the 2025-2034 sustainable harvest calculation as required by RCW 79.10.320, the department must hire a third-party contractor to review, analyze, and advise the department's forest growth and yield modeling, specific to all types of forested acres managed by the department. The department's sustainable harvest calculation technical advisory committee must be involved in the design, review, and analysis of the department's forest growth and yield modeling.

(c) Prior to the determination of the 2025-2034 sustainable harvest calculation as required by RCW 79.10.320 and in the absence of any litigation, pending or in progress, against the department's sustainable harvest calculation, the joint legislative audit and review committee established in chapter 44.28 RCW must oversee and conduct an independent review of the methodologies and data being utilized by the department in the development of the sustainable harvest calculation, including the associated forest inventory, forest growth, harvest and yield data, and modeling techniques that impact harvest levels. In carrying out the review, the joint legislative audit and review committee shall:

(i) Retain one or more contractors with expertise in forest inventories, forest growth and yield modeling, and operational research modeling in forest harvest scheduling to conduct the technical review;

(ii) Be a member of department's sustainable harvest calculation technical advisory committee, along with one of its contractors selected in (c)(i) of this subsection; and

(iii) Prior to the department's determination of the sustainable harvest under RCW 79.10.320, ensure that a completed independent review and report with findings and recommendations is submitted to the board of natural resources and the legislature.

(d) Upon receiving the report from the joint legislative audit and review committee required under (c)(iii) of this subsection, the board of natural resources shall determine whether modifications are necessary to the sustainable harvest calculation prior to approving harvest level under RCW 79.10.320.

Sec. 4. RCW 76.06.200 and 2019 c 305 s 1 are each amended to read as follows:

(1) The department must establish a forest health assessment and treatment framework designed to proactively and systematically address the forest health issues facing the state. Specifically, the framework must endeavor to achieve an initial goal of assessing and treating one million acres of land by 2033.

(2) The department must utilize the framework to assess and treat acreage in an incremental fashion each biennium. The framework consists of three elements: Assessment; treatment; and progress review and reporting.

(a) Assessment. Each biennium, the department must identify and assess two hundred thousand acres of fire prone lands and communities that are in need of forest health treatment, including the use of prescribed fire or mechanical treatment(~~(, such as thinning)~~).

(i) The scope of the assessment must include lands protected by the department as well as lands outside of the department's fire protection responsibilities that could pose a high risk to department protected lands during a fire.

(ii) The assessment must identify areas in need of treatment, the type or types of treatment recommended, spatial optimization of forest treatments across landscapes, data and planning needs to carry out recommended treatment, and the estimated cost of recommended treatment.

(iii) The department shall develop a mapping tool to identify small forestland owners within wildfire risk areas and use this tool to evaluate and optimize forest health work at a landscape scale to move high risk wildfire areas to lower risk and to leverage funding and the small forestland owner forest health program and landowner assistance program in section 7 of this act with the greatest impact for wildfire prevention, preparedness, and response.

(b) Treatment. Each biennium, the department must review previously completed assessments and prioritize and conduct as many identified treatments as possible using appropriations provided for that specific purpose.

(c) Progress review and reporting. By December 1st of each even-numbered year, the department must provide the appropriate committees of the legislature and the office of financial management with:

(i) A request for appropriations designed to implement the framework in the following biennium, including assessment work and conducting treatments identified in previously completed assessments;

(ii) A prioritized list and brief summary of treatments planned to be conducted under the framework with the requested appropriations, including relevant information from the assessment; and

(iii) A list and brief summary of treatments carried out under the framework in the preceding biennium, including total funding available, costs for completed treatment, and treatment outcomes. The summary must include any barriers to framework implementation and legislative or administrative recommendations to address those barriers.

(3) In developing and implementing the framework, the department must:

(a) Utilize and build on the forest health strategic planning initiated under section 308(11), chapter 36, Laws of 2016 sp. sess., to the maximum extent practicable, to promote the efficient use of resources;

(b) Prioritize, to the maximum extent practicable consistent with this section, forest health treatments that are strategically planned to serve the dual benefits of forest health maximization while providing geographically planned tools for wildfire response; ~~((and))~~

(c) Where possible, partner with federally recognized tribes to expand use of the tribal forest protection act on federal lands managed by the United States forest service and the bureau of land management;

(d) When entering into good neighbor agreements, as that term is defined in RCW 79.02.010, prioritize, to the maximum extent practicable consistent with this section, forest health treatments adjacent to or nearby state lands so as to increase the speed, efficiency, and impact on the landscape; and

(e) Establish a forest health advisory committee to assist in developing and implementing the framework. The committee may: (i) Include representation from large and small forestland owners, wildland fire response organizations, milling and log transportation industries, forest collaboratives that may exist in the affected areas, highly affected communities and community preparedness organizations, conservation groups, and other interested parties deemed appropriate by the commissioner; and (ii) consult with relevant local, state, and federal agencies, and tribes.

(4) In implementing subsection (3)(b) of this section, the department shall attempt to locate and design forest health treatments in such a way as to provide wildfire response personnel with strategically located treated areas to assist with managing fire response. These areas must attempt to maximize the firefighting benefits of natural and artificial geographic features and be located in areas that prioritize the protection of commercially managed lands from fires originating on public land.

(5) The department must establish and implement the forest health assessment and treatment framework within the appropriations specifically provided for this purpose.

(6) The department must explore opportunities and developing markets for the utilization of woody biomass residuals from forest treatments, including biochar. When exploring opportunities and developing markets, the department must consult with the department of commerce, relevant federal agencies,

representatives of the forest products sector, environmental organizations, and other stakeholders with a working knowledge of woody biomass technology.

NEW SECTION. **Sec. 5. WORKFORCE DEVELOPMENT.** (1) The legislature finds that satisfying the goals identified in section 1 of this act to increase the pace and scale of forest health treatments and improve wildfire prevention and response requires increasing the workforce that is needed to perform this critical work. This need creates an opportunity to develop employment and career pathways across the state, including in rural communities throughout Washington. Investments to support and further develop the forest sector workforce are recommended in both the department's 2019 "plan for climate resilience" and the department of commerce's 2020 report "Washington's green economy."

(2) The department and the department of commerce shall jointly develop and implement, as appropriate and in consultation with centers of excellence, higher education, secondary education, and workforce development centers, initiatives to develop a forest health workforce necessary to implement the goals of this section. Initiatives may include, but are not limited to:

(a) Creating a new or making an existing grant program available to nonprofits, labor organizations, state agencies, community and technical colleges, institutions of higher education, private sector employers, skills centers, or other training and education institutions that have qualifications and experience in the development of training programs, such as secondary and postsecondary courses, relevant to the workforce needs of the forest sector. Grants must be awarded on a competitive basis with priority funding for programs that meet urgent forest health and wildfire suppression skills gaps and demonstrate a lack of available workforce in underserved communities. Grants awarded may be used for activities such as internships, Washington state registered apprenticeship programs, recognized preapprenticeships, career launch, and other relevant career connect Washington activities, and postsecondary bridge programs for forest sector or skill relevant trades that provide:

(i) On the job training;

(ii) Hard and soft skills development;

(iii) Test preparation for trade apprenticeship;

(iv) Advanced training in the forest sector relating to jobs such as: Hand crews; wildland firefighters; fire safety; equipment operators; timber operators; mill workers; mill or forestry technicians; mechanics; loggers; timber fallers; commercial truck drivers; foresters; ecologists; biologists; or other workforce needs in support of forest restoration and wildfire response;

(b) Developing education programs for elementary, secondary, and higher education students that: (i) Inform people about the role of forestry, fire, vegetation management, and ecological restoration; (ii) increase the awareness of opportunities for careers in the forest sector and exposure of students to those careers through various work-based learning opportunities inside and outside the classroom; (iii) connect students in pathways to careers in the forest sector; and (iv) incorporate opportunities for secondary students to earn industry recognized credentials and dual credit in career and technical education courses;

(c) Developing regional education, industry, and workforce development collaborations, including recruiting and building industry awareness and

coordinating candidate development particularly in areas that are traditionally underrepresented in natural resource industries and specifically in forestry;

(d) Building additional statewide response. The department shall develop a recruiting and outreach program across the state to encourage people to volunteer with their local fire departments. The department shall expand existing training programs to meet increased interest and need in wildfire response and forest health work; and

(e) Developing a program to train local building and construction trade members and contractors to be deployed during periods requiring surge capacity for wildland fire suppression including:

(i) As wildland firefighters who meet the requirements of being utilized by the department; and

(ii) As heavy equipment operators who meet the requirements to be utilized by the department as required by RCW 76.04.181.

(3) The commissioner and the director of the department of commerce must direct their staff to develop a plan for tracking, maintaining, and publicly reporting on the following:

(a) A working definition of the forest sector workforce, including the job skills, certifications, and experience required;

(b) Recommendations for the training, recruitment, and retention of the current and anticipated forest sector workforce necessary to implement the goals of this act;

(c) The identification of gaps and barriers to a full forest sector workforce pool, including:

(i) Estimates of forest sector workforce jobs created and retained as well as any reductions in the forest sector workforce;

(ii) An estimate of the number of needed private contractors to implement the goals of this act, an inventory of local and regional private contractors trained to carry out wildfire response and forest health work, and a list of local private contractors utilized annually for wildfire response and forest health work; and

(iii) An inventory of existing training facilities and programs that support ongoing and anticipated forest sector, or related sectors, as identified in subsection (2)(a)(iv) of this section;

(d) Recommendations for addressing identified barriers or other needs to otherwise continue the development of a forest workforce necessary to implement the goals of this act.

(4) The department and the department of corrections shall jointly develop opportunities to expand existing programs to provide the additional wildfire, forest health, and silvicultural capacity necessary to implement the goals of this act, including a postrelease program that helps formerly incarcerated individuals who served on state fire response crews obtain employment in wildfire suppression and forest management.

(5) The department shall utilize existing programs such as the Washington conservation corps, Washington veterans corps, Washington service corps, customized and on-the-job training, or similar programs to expand opportunities and promote family wage careers in the forest sector workforce.

(6) To the maximum extent possible, workforce development programs and policies should prioritize historically marginalized, underrepresented, rural, and low-income communities.

(7) The department and the department of commerce, working with the forest health advisory committee, must assist forestland owners and forest products companies grow existing and develop new market opportunities for the utilization of material produced as a result of forest health treatments funded through the wildfire response, forest restoration, and community resilience account to improve the economic benefit of the treatments while increasing the speed, efficiency, and impact of forest restoration on the landscape.

Sec. 6. RCW 76.06.150 and 2009 c 163 s 5 are each amended to read as follows:

(1) The commissioner (~~(of public lands)~~) is designated as the state of Washington's lead for all forest health issues.

(2) The commissioner (~~(of public lands)~~) shall strive to promote communications between the state, tribes, and the federal government regarding forestland management decisions that potentially affect the health of forests in Washington and will allow the state to have an influence on the management of federally owned land in Washington. Such government-to-government cooperation is vital if the condition of the state's public and private forestlands are to be protected. These activities may include, when deemed by the commissioner to be in the best interest of the state:

(a) Representing the state's interest before all appropriate local, state, and federal agencies and tribes;

(b) Assuming the lead state role for developing formal comments on federal forest management plans that may have an impact on the health of forests in Washington;

(c) Pursuing in an expedited manner any available and appropriate cooperative agreements, including cooperating agency status designation, with the United States forest service and the United States bureau of land management that allow for meaningful participation in any federal land management plans that could affect the department's strategic plan for healthy forests and effective fire prevention and suppression, including the pursuit of any options available for giving effect to the cooperative philosophy contained within the national environmental policy act of 1969 (42 U.S.C. Sec. 4331)(~~;~~ and

~~(d) Pursuing~~).

(3) The commissioner shall regularly meet and coordinate with the regional leadership of the United States forest service, in order to:

(a) Identify strategies to improve the delivery and increase the pace and scale of forest health and resiliency, and fuels mitigation treatments, on federal lands;

(b) Document the resources needed to increase the capacity available to the United States forest service, on national forests in Washington;

(c) Identify supplemental planning and implementation support to the United States forest service, through the use of cooperative agreements and good neighbor agreements, as that term is defined in RCW 79.02.010;

(d) Maximize the utilization of available efficiencies for compliance with the national environmental policy act, as it applies to actions of the United States

forest service in Washington, such as tools to increase the pace and scale of forest health treatments including, but not limited to, categorical exclusions, shared stewardship, and tribal forest protection act for forest health, fuels mitigation, and restoration activities;

(e) Accelerate national environmental policy act completion for forest health and resiliency projects, including through increased staffing and the use of partners, contractors, and department expertise to complete national environmental policy act requirements analysis; and

(f) Pursue agreements with federal agencies in the service of forest biomass energy partnerships and cooperatives authorized under RCW 43.30.835 through 43.30.840.

~~((3) The)) (4) Every two years, the commissioner ((of public lands)) shall report to the ~~((chairs of the appropriate standing committees of the))~~ legislature ~~((every year))~~ on progress under this section, including ~~((the))~~:~~

(a) The identification, if deemed appropriate by the commissioner, of any needed state or federal statutory changes, policy issues, or funding needs; and

(b) An estimate of the acres of at-risk forests on each national forest and the number of acres treated.

NEW SECTION. Sec. 7. A new section is added to chapter 76.13 RCW to read as follows:

SMALL FORESTLAND OWNER FOREST HEALTH PROGRAM.

(1) There is established an integrated small forestland owner forest health program that promotes the coordination and delivery of services with federal, state, and local agencies, including local fire districts, conservation districts, and community wildfire resilience coalitions, forest landowner associations, colleges and universities, landowner assistance organizations, consultants, forest resource-related industries, and environmental organizations to nonindustrial forests and woodland owners, hereafter referred to as small forestland owners.

(2) Under the state forester's direction, the program must:

(a) Integrate existing landowner assistance forest health programs consistent with the recommendations of "Washington's Small Forest Landowners in 2020, Status, Trends and Recommendations after 20 years of Forests & Fish, January 2021" (the report required by chapter 457, Laws of 2019), to more efficiently and effectively reach the diversity of small forestland owner audiences to take forest health action;

(b) Identify and remove barriers to technical assistance, funding, and forest health management planning;

(c) Increase education and outreach to small forestland owners; and

(d) Distribute funding effectively to move high wildfire risk areas to lower risk.

(3) Priority areas for forest health treatment under the Washington state forest action plan, the 10-year forest health strategic plan, and the wildland fire protection 10-year strategic plan may not prohibit technical support or stewardship plan support for small forestland owner lands outside the designated emphasis areas.

NEW SECTION. Sec. 8. **WILDFIRE AVIATION RESPONSE.** The department must develop and implement a wildland fire aviation support plan, as recommended by the wildland fire protection 10-year strategic plan, in order to

expand and improve the effectiveness and cost-efficiency of the department's wildland fire aviation program. The wildland fire aviation support plan must include:

(1) Recommendations for the addition of air assets in order for the department to increase its initial attack capability and maintain and improve on the department's ability to manage fires to meet 10-year wildland fire protection and 20-year forest health strategic plan goals;

(2) Development of a next-generation rotor wing platform strategy to ensure the availability and use of the latest firefighting aviation technology and provide a path for either the upgrade or replacement, or both, of the department's legacy aircraft;

(3) Evaluation of opportunities to increase the use of contract air assets;

(4) Evaluation of costs and benefits to increase dedicated air resources during peak fire season when there may be limited available supply due to wildfire activity in other states; and

(5) Strategies to upgrade retardant loading and processing infrastructure to improve tanker turnaround time, including support for development of infrastructure to accommodate very large air tankers, at a port with an international airport within a county east of the crest of the Cascade mountains that does not share a border with another state.

Sec. 9. RCW 72.64.160 and 1991 c 131 s 2 are each amended to read as follows:

(1) For the purposes of RCW 72.64.150, inmate forest fire suppression crews may be considered a class I free venture industry, as defined in RCW 72.09.100, when fighting fires on federal lands.

(2) For the purposes of RCW 72.64.050, inmate forest fire suppression and support crews when fighting fires must receive a gratuity no less than the minimum wage per hour paid in the locality in which the industry is located.

NEW SECTION. Sec. 10. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 11. SHORT TITLE. This act may be known and cited as the wildfire response, forest restoration, and community resilience act.

NEW SECTION. Sec. 12. Sections 1 through 3, 5, and 8 of this act are each added to chapter 76.04 RCW and codified with the subchapter heading of "wildfire response, forest restoration, and community resilience."

Passed by the House April 22, 2021.

Passed by the Senate April 9, 2021.

Approved by the Governor May 13, 2021.

Filed in Office of Secretary of State May 13, 2021.

CHAPTER 299

[Substitute House Bill 1193]

COLUMBIA RIVER FEDERAL NAVIGATION CHANNELS—SHORELINE MANAGEMENT ACT EXEMPTION

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

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

Sec. 1. RCW 90.58.355 and 2020 c 20 s 1506 are each amended to read as follows:

Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by a local government to implement this chapter do not apply to:

(1) Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70A.305 RCW, or to the department of ecology when it conducts a remedial action under chapter 70A.305 RCW. The department must ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70A.305 RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70A.305.090;

(2) Any person installing site improvements for stormwater treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system stormwater general permit. The department must ensure compliance with the substantive requirements of this chapter through the review of engineering reports, site plans, and other documents related to the installation of boatyard stormwater treatment facilities; ((or))

(3) The department of transportation projects and activities that meet the conditions of RCW 90.58.356; or

(4) Actions taken on the Columbia river by the United States army corps of engineers, under the authority of United States Code Titles 33 and 42 and 33 C.F.R. Sec. 335, to maintain and improve federal navigation channels in accordance with federally mandated dredged material management and improvement project plans, provided the project: (a) Has undergone environmental review under both the national environmental policy act, 42 U.S.C. Sec. 4321-4370h and the state environmental policy act, chapter 43.21C RCW; and (b) has applied for federal clean water act section 401 water quality certifications issued by the department.

Passed by the House April 15, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor May 13, 2021.

Filed in Office of Secretary of State May 13, 2021.

CHAPTER 300

[Engrossed Second Substitute House Bill 1287]

ZERO-EMISSION VEHICLES—PREPAREDNESS

AN ACT Relating to preparedness for a zero emissions transportation future; amending RCW 19.280.030, 19.27.540, and 82.44.200; adding a new section to chapter 47.01 RCW; adding a new chapter to Title 70A RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1) Motor vehicles are a significant source of air pollution, including greenhouse gas emissions, in Washington. The transportation sector accounts for nearly one-half of greenhouse gas emissions in

Washington, and on-road vehicle emissions are responsible for the vast majority of the transportation sector emissions.

(2) The widespread adoption of zero emissions vehicles is essential to the achievement of the state emissions limits established in RCW 70A.45.020, which, by 2050, requires a reduction of greenhouse gas emissions to 5,000,000 metric tons and the achievement of net zero greenhouse gas emissions. The rapid uptake of zero emissions vehicles is also an essential component of the state energy strategy, which calls for the phase out of vehicles powered by gasoline or diesel by mid-century. To ensure that the necessary infrastructure is in place to facilitate zero emissions vehicle adoption, the state energy strategy calls for the establishment of building codes that require installation of the conduit, wiring, and panel capacity necessary to support electric vehicle charging in new and retrofitted buildings.

(3) In 2005, Washington first took action to adopt some of the motor vehicle emissions standards of the state of California, which are more protective of human health and the environment than federal motor vehicle emissions standards. In 2020, the legislature directed the department of ecology to adopt all of California's motor vehicle emissions standards, including California's zero emissions vehicles program.

(4) A Washington state transition to a zero emissions transportation future requires accurate forecasting of zero emissions vehicle adoption rates, comprehensive planning for the necessary electric vehicle charging and green hydrogen production infrastructure, including the siting of infrastructure in desirable locations with amenities, such as near convenience stores, gas stations, and other small retailers, and managing the load of charging and green hydrogen production and refueling infrastructure as a dynamic energy service to the electric grid.

(5) To ensure that the transition to a zero emissions transportation future proceeds efficiently and conveniently for users and operators of the multimodal transportation system, it is the intent of the legislature to:

(a) Require state government to provide resources that facilitate the planning and deployment of electric vehicle charging and refueling infrastructure in a transparent, effective, and equitable manner across the state;

(b) Ensure utility resource planning analyzes the impacts on electricity generation and delivery from growing adoption and usage of electric vehicles; and

(c) Require state building codes that support the anticipated levels of zero emissions vehicle use that result from the program requirements in chapter 70A.30 RCW and that achieve emissions reductions consistent with RCW 70A.45.020.

NEW SECTION. Sec. 2. A new section is added to chapter 47.01 RCW to read as follows:

(1) The department, through the department's public-private partnership office and in consultation with the department of ecology, the department of commerce, and the office of equity, must develop and maintain a publicly available mapping and forecasting tool that provides locations and essential information of charging and refueling infrastructure to support forecasted levels of electric vehicle adoption, travel, and usage across Washington state.

(2)(a) The publicly available mapping and forecasting tool must be designed to enable coordinated, effective, efficient, and timely deployment of charging and refueling infrastructure necessary to support statewide and local transportation electrification efforts that result in emissions reductions consistent with RCW 70A.45.020.

(b) The tool must:

- (i) Initially prioritize on-road transportation;
- (ii) To the greatest extent possible, maintain the latest data;
- (iii) Model charging and refueling infrastructure that may be used by owners and operators of light, medium, and heavy-duty vehicles; and
- (iv) Incorporate the department's traffic data for passenger and freight vehicles.

(c) The tool must, if feasible:

- (i) Provide the data necessary to support programs by state agencies that directly or indirectly support transportation electrification efforts;
- (ii) Evolve over time to support future transportation electrification programs;
- (iii) Provide data at a scale that supports electric utility planning for the impacts of transportation electrification both systemwide and on specific components of the distribution system; and

(iv) Forecast statewide zero emissions vehicle use that would achieve the emissions reductions consistent with RCW 70A.45.020. The department may reference existing zero emissions vehicle use forecasts, such as that established in the state energy strategy.

(3) The department, in consultation with the department of commerce, the department of ecology, and the office of equity, may elect to include other transportation charging and refueling infrastructure, such as maritime, public transportation, and aviation in the mapping and forecasting tool.

(4) The tool must include, to the extent feasible, the following elements:

(a) The amount, type, location, and year of installation for electric vehicle supply equipment that is expected to be necessary to support forecasted electric vehicle penetration and usage within the state;

(b) Electric vehicle adoption, usage, technological profiles, and any other characteristics necessary to model future electric vehicle penetration levels and use cases that impact electric vehicle supply equipment needs within the state;

(c) The estimated energy and capacity demand based on inputs from (b) of this subsection;

(d) Boundaries of political subdivisions including, but not limited to:

- (i) Retail electricity suppliers;
- (ii) Public transportation agency boundaries;
- (iii) Municipalities;
- (iv) Counties; and
- (v) Federally recognized tribal governments;

(e) Existing and known publicly or privately owned level 2, direct current fast charge, and refueling infrastructure. The department must identify gas stations, convenience stores, and other small retailers that are colocated with existing and known electric vehicle charging infrastructure identified under this subsection;

(f) A public interface designed to provide any user the ability to determine the forecasted charging and refueling infrastructure needs within a provided geographic boundary, including those listed under (d) of this subsection; and

(g) The ability for all data tracked within the tool to be downloadable or usable within a separate mapping and forecasting tool.

(5) The tool must, if feasible, integrate scenarios including:

(a) Varying levels of public transportation utilization;

(b) Varying levels of active transportation usage, such as biking or walking;

(c) Vehicle miles traveled amounts above and below the baseline;

(d) Adoption of autonomous and shared mobility services; and

(e) Forecasts capturing each utility service area's relative level of zero emissions vehicle use that would achieve each utility service area's relative emissions reductions consistent with RCW 70A.45.020.

(6) To support highly impacted communities and vulnerable populations disproportionately burdened by transportation-related emissions and to ensure economic and mobility benefits flow to communities that have historically received less investment in infrastructure, the mapping and forecasting tool must integrate population, health, environmental, and socioeconomic data on a census tract basis. The department may use existing data used by other state or federal agencies. The department must consult with the department of health, the office of equity, the department of ecology, and other agencies as necessary in order to ensure the tool properly integrates cumulative impact analyses best practices and to ensure that the tool is developed in coordination with other state government administrative efforts to identify disproportionately impacted communities.

(7) The mapping and forecasting tool must, to the extent appropriate, integrate related analyses, such as the department of commerce's state energy strategy, the joint transportation committee's public fleet electrification study, the west coast collaborative's alternative fuel infrastructure corridor coalition report, and other related electric vehicle supply equipment assessments as deemed appropriate. To the extent that the mapping and forecasting tool is used by the department as the basis for the identification of recommended future electric vehicle charging sites, the department must consider recommending sites that are collocated with small retailers, including gas stations and convenience stores, and other amenities.

(8) Where appropriate and feasible, the mapping and forecasting tool must incorporate infrastructure located at or near the border in neighboring state and provincial jurisdictions.

(9) In designing the mapping and forecasting tool, the department must coordinate with the department of commerce, the department of ecology, the utilities and transportation commission, and other state agencies as needed in order to ensure the mapping and forecasting tool is able to successfully facilitate other state agency programs that involve deployment of electric vehicle supply equipment.

(10) The department must conduct a stakeholder process in developing the mapping and forecasting tool to ensure the tool supports the needs of communities, public agencies, and relevant private organizations. The stakeholder process must involve stakeholders, including but not limited to electric utilities, early in the development of the tool.

(11) The department may contract with the department of commerce or consultants, or both, to develop and implement all or portions of the mapping and forecasting tool. The department may rely on or, to the extent necessary, contract for privately maintained data sufficient to develop the elements specified in subsection (4) of this section.

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

(a) "Charging infrastructure" means a unit of fueling infrastructure that supplies electric energy for the recharging of battery electric vehicles.

(b) "Direct current fast charger" means infrastructure that supplies electricity to battery electric vehicles at capacities no less than 50 kilowatts, typically using 208/408 volt three-phase direct current electricity.

(c) "Electric vehicle" means any craft, vessel, automobile, public transportation vehicle, or equipment that transports people or goods and operates, either partially or exclusively, on electrical energy from an off-board source that is stored onboard for motive purpose.

(d) "Electric vehicle supply equipment" means charging infrastructure and hydrogen refueling infrastructure.

(e) "Level 2 charger" means infrastructure that supplies electricity to battery electric vehicles at 240 volts and equal to or less than 80 amps.

(f) "Refueling infrastructure" means a unit of fueling infrastructure that supplies hydrogen for the resupply of hydrogen fuel cell electric vehicles.

Sec. 3. RCW 19.280.030 and 2019 c 288 s 14 are each amended to read as follows:

Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than twenty-five thousand customers that are not full requirements customers must develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ten years or longer, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources, as informed, as applicable, by the assessment for conservation potential under RCW 19.285.040 for the planning horizon consistent with (a) of this subsection. Such assessment may include, as appropriate, opportunities for development of combined heat and power as an energy and capacity resource, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and

conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) An assessment of methods, commercially available technologies, or facilities for integrating renewable resources, including but not limited to battery storage and pumped storage, and addressing overgeneration events, if applicable to the utility's resource portfolio;

(f) An assessment and ten-year forecast of the availability of regional generation and transmission capacity on which the utility may rely to provide and deliver electricity to its customers;

(g) A determination of resource adequacy metrics for the resource plan consistent with the forecasts;

(h) A forecast of distributed energy resources that may be installed by the utility's customers and an assessment of their effect on the utility's load and operations;

(i) An identification of an appropriate resource adequacy requirement and measurement metric consistent with prudent utility practice in implementing RCW 19.405.030 through 19.405.050;

(j) The integration of the demand forecasts, resource evaluations, and resource adequacy requirement into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events and implementing RCW 19.405.030 through 19.405.050, at the lowest reasonable cost and risk to the utility and its customers, while maintaining and protecting the safety, reliable operation, and balancing of its electric system;

(k) An assessment, informed by the cumulative impact analysis conducted under RCW 19.405.140, of: Energy and nonenergy benefits and reductions of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and risk; ~~(and)~~

(l) A ten-year clean energy action plan for implementing RCW 19.405.030 through 19.405.050 at the lowest reasonable cost, and at an acceptable resource adequacy standard, that identifies the specific actions to be taken by the utility consistent with the long-range integrated resource plan; and

(m) An analysis of how the plan accounts for:

(i) Modeled load forecast scenarios that consider the anticipated levels of zero emissions vehicle use in a utility's service area, including anticipated levels of zero emissions vehicle use in the utility's service area provided in section 2 of this act, if feasible;

(ii) Analysis, research, findings, recommendations, actions, and any other relevant information found in the electrification of transportation plans submitted under RCW 35.92.450, 54.16.430, and 80.28.365; and

(iii) Assumed use case forecasts and the associated energy impacts. Electric utilities may, but are not required to, use the forecasts generated by the mapping and forecasting tool created in section 2 of this act. This subsection (1)(m)(iii) applies only to plans due to be filed after September 1, 2023.

(2) For an investor-owned utility, the clean energy action plan must: (a) Identify and be informed by the utility's ten-year cost-effective conservation potential assessment as determined under RCW 19.285.040, if applicable; (b) establish a resource adequacy requirement; (c) identify the potential cost-

effective demand response and load management programs that may be acquired; (d) identify renewable resources, nonemitting electric generation, and distributed energy resources that may be acquired and evaluate how each identified resource may be expected to contribute to meeting the utility's resource adequacy requirement; (e) identify any need to develop new, or expand or upgrade existing, bulk transmission and distribution facilities; and (f) identify the nature and possible extent to which the utility may need to rely on alternative compliance options under RCW 19.405.040(1)(b), if appropriate.

(3)(a) An electric utility shall consider the social cost of greenhouse gas emissions, as determined by the commission for investor-owned utilities pursuant to RCW 80.28.405 and the department for consumer-owned utilities, when developing integrated resource plans and clean energy action plans. An electric utility must incorporate the social cost of greenhouse gas emissions as a cost adder when:

- (i) Evaluating and selecting conservation policies, programs, and targets;
- (ii) Developing integrated resource plans and clean energy action plans; and
- (iii) Evaluating and selecting intermediate term and long-term resource options.

(b) For the purposes of this subsection (3): (i) Gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters must be considered a nonemitting resource; and (ii) qualified biomass energy must be considered a nonemitting resource.

(4) To facilitate broad, equitable, and efficient implementation of chapter 288, Laws of 2019, a consumer-owned energy utility may enter into an agreement with a joint operating agency organized under chapter 43.52 RCW or other nonprofit organization to develop and implement a joint clean energy action plan in collaboration with other utilities.

(5) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

- (a) Estimates loads for the next five and ten years;
- (b) Enumerates the resources that will be maintained and/or acquired to serve those loads;
- (c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not: (i) Renewable resources; (ii) methods, commercially available technologies, or facilities for integrating renewable resources, including addressing any overgeneration event; or (iii) conservation and efficiency resources, why such a decision was made; ~~(and)~~

(d) By December 31, 2020, and in every resource plan thereafter, identifies how the utility plans over a ten-year period to implement RCW 19.405.040 and 19.405.050; and

(e) Accounts for:

(i) Modeled load forecast scenarios that consider the anticipated levels of zero emissions vehicle use in a utility's service area, including anticipated levels of zero emissions vehicle use in the utility's service area provided in section 2 of this act, if feasible;

(ii) Analysis, research, findings, recommendations, actions, and any other relevant information found in the electrification of transportation plans submitted under RCW 35.92.450, 54.16.430, and 80.28.365; and

(iii) Assumed use case forecasts and the associated energy impacts. Electric utilities may, but are not required to, use the forecasts generated by the mapping and forecasting tool created in section 2 of this act. This subsection (5)(e)(iii) applies only to plans due to be filed after September 1, 2023.

(6) Assessments for demand side resources included in an integrated resource plan may include combined heat and power systems as one of the measures in a conservation supply curve. The value of recoverable waste heat resulting from combined heat and power must be reflected in analyses of cost-effectiveness under this subsection.

(7) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

(8) Plans developed under this section must be updated on a regular basis, on intervals approved by the commission or the department, or at a minimum on intervals of two years.

(9) Plans shall not be a basis to bring legal action against electric utilities.

(10)(a) To maximize transparency, the commission, for investor-owned utilities, or the governing body, for consumer-owned utilities, may require an electric utility to make the utility's data input files available in a native format. Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

(b) Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095.

(11) By December 31, 2021, the department and the commission must adopt rules establishing the requirements for incorporating the cumulative impact analysis developed under RCW 19.405.140 into the criteria for developing clean energy action plans under this section.

Sec. 4. RCW 19.27.540 and 2019 c 285 s 18 are each amended to read as follows:

(1) The building code council shall adopt rules for electric vehicle infrastructure requirements. Rules adopted by the state building code council must consider applicable national and international standards and be consistent with rules adopted under RCW 19.28.281.

(2)(a) Except as provided in (b) of this subsection, the rules adopted under this section must require electric vehicle charging capability at all new buildings that provide on-site parking. Where parking is provided, the greater of one parking space or ten percent of parking spaces, rounded to the next whole number, must be provided with wiring or raceway sized to accommodate 208/240 V 40-amp or equivalent electric vehicle charging. Electrical rooms serving buildings with on-site parking must be sized to accommodate the potential for electrical equipment and distribution required to serve a minimum of twenty percent of the total parking spaces with 208/240 V 40-amp or equivalent electric vehicle charging. Load management infrastructure may be used to adjust the size and capacity of the required building electric service equipment and circuits on the customer facilities, as well as electric utility-owned infrastructure, as allowed by applicable local and national electrical code.

For accessible parking spaces, the greater of one parking space or ten percent of accessible parking spaces, rounded to the next whole number, must be provided with electric vehicle charging infrastructure that may also serve adjacent parking spaces not designated as accessible parking.

(b) For occupancies classified as assembly, education, or mercantile, the requirements of this section apply only to employee parking spaces. The requirements of this section do not apply to occupancies classified as (~~residential R-3,~~) utility(~~s~~) or miscellaneous.

(c) (~~The~~) Except for rules related to residential R-3, the required rules required under this subsection must be implemented by July 1, 2021. The rules required under this subsection for occupancies classified as residential R-3 must be implemented by July 1, 2024.

(3)(a) The rules adopted under this section must exceed the specific minimum requirements established under subsection (2) of this section for all types of residential and commercial buildings to the extent necessary to support the anticipated levels of zero emissions vehicle use that result from the zero emissions vehicle program requirements in chapter 70A.30 RCW and that result in emissions reductions consistent with RCW 70A.45.020.

(b) The rules required under this subsection must be implemented by July 1, 2024, and may be periodically updated thereafter.

Sec. 5. RCW 82.44.200 and 2019 c 287 s 15 are each amended to read as follows:

The electric vehicle account is created in the transportation infrastructure account. Proceeds from the principal and interest payments made on loans from the account must be deposited into the account. Expenditures from the account may be used only for the purposes specified in RCW 47.04.350, 82.08.9999, and 82.12.9999, and the support of other transportation electrification and alternative fuel related purposes, including section 2 of this act. Moneys in the account may be spent only after appropriation.

***NEW SECTION. Sec. 6.** (1) Once a road usage charge, or equivalent fee or tax based on vehicle miles traveled, is in effect in the state of Washington with at least 75 percent of the registered passenger and light duty vehicles in the state participating, then a goal is established for the state that all publicly owned and privately owned passenger and light duty vehicles of model year 2030 or later that are sold, purchased, or registered in Washington state be electric vehicles. The department of licensing shall provide notice to the secretary of the senate and the chief clerk of the house of representatives, and the office of the governor when the road usage charge is in effect and the required number of registered vehicles are participating.

(2) The goal established in this section does not supersede any other law, and the other law controls if inconsistent with the goal established in this section.

(3) For purposes of this section:

(a) "Electric vehicles" are vehicles that use energy stored in rechargeable battery packs or in hydrogen and which rely solely on electric motors for propulsion.

(b) "Passenger and light duty vehicles" are on-road motor vehicles with a scale weight of up to 10,000 pounds and three or more wheels. Emergency services vehicles are not passenger and light duty vehicles.

(4) Nothing in this section:

(a) Authorizes any state agency to restrict the purchase, sale, or registration of vehicles that are not electric vehicles; or

(b) Changes or affects the directive to the department of ecology to implement the zero emission vehicle program required under RCW 70A.30.010.

**Sec. 6 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 7. Section 6 of this act constitutes a new chapter in Title 70A RCW.

Passed by the House April 14, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor May 13, 2021, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 6, Engrossed Second Substitute House Bill No. 1287 entitled:

"AN ACT Relating to preparedness for a zero emissions transportation future."

Section 6 of the bill ties a very important goal of electrifying our transportation sector to the implementation of a road usage charge program. Transportation is our state's greatest source of carbon emissions and we cannot afford to link an important goal like getting to 100% zero-emission vehicles to a separate policy that will take time to design and implement.

I am committed to getting to zero emission transportation as quickly as possible. In fact, Washington is leading the way by building electric vehicle charging infrastructure, procuring zero-emission transit vehicles and building electric ferries, providing financial incentives for electric vehicle purchases, and advocating for a national 100% zero-emission vehicle standard by 2035.

I am also open to exploring the potential of a road usage charge program as part of a larger transportation revenue discussion. I look forward to working with legislators and stakeholders to figure out how to design a road usage charge that ensures the privacy of drivers, helps meet our zero-emission transportation goals, and ensures low-income and overburdened communities are not doubly penalized after already suffering through longer commutes.

Yet setting and achieving a goal of 100% electric vehicles is too important to tie to the implementation of a separate policy like the road usage charge.

For these reasons I have vetoed Section 6 of Engrossed Second Substitute House Bill No. 1287.

With the exception of Section 6, Engrossed Second Substitute House Bill No. 1287 is approved."

CHAPTER 301

[Engrossed Second Substitute House Bill 1365]

PUBLIC SCHOOLS—TECHNOLOGY—PROCUREMENT AND SUPPORT

AN ACT Relating to procuring and supporting appropriate computers and devices for public school students and instructional staff; amending RCW 28A.650.010; adding new sections to chapter 28A.650 RCW; adding new sections to chapter 28A.300 RCW; creating new sections; repealing RCW 28A.650.005, 28A.650.015, 28A.650.020, 28A.650.025, 28A.650.030, 28A.650.900, and 28A.650.901; and providing expiration dates.

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

NEW SECTION. Sec. 1. (1) The legislature recognizes that the COVID-19 pandemic exposed the importance of internet-accessible learning devices for the ability of students to receive a modern education. When Washington schools closed in March 2020, schools and school districts shifted quickly to offering education in an online environment. Teachers adapted their lessons for videoconferencing platforms and arranged for students to submit homework via email. However, limited opportunities for in-person instruction amplified digital deserts and disparities among students that are likely to continue to grow for the foreseeable future.

(2) The legislature finds that students from low-income families face disproportionate barriers to accessing learning over the internet in their homes, partly because they do not have internet-accessible devices appropriate for learning. The legislature also recognizes that accessing learning over the internet requires more than just an internet-accessible device appropriate for learning. For students and their families to be truly connected, they need the digital literacy, digital skills, and digital support to use internet-accessible devices and to navigate the web in support of student learning.

(3) Therefore, the purposes of this act are to: (a) Accelerate student access to learning devices and related goods and services; (b) expand training programs and technical assistance on using technology to support student learning; and (c) build the capacity of schools and districts to support digital navigation services for students and their families.

Sec. 2. RCW 28A.650.010 and 2017 c 90 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) "Digital citizenship" includes the norms of appropriate, responsible, and healthy behavior related to current technology use, including digital and media literacy, ethics, etiquette, and security. The term also includes the ability to access, analyze, evaluate, develop, produce, and interpret media, as well as internet safety and cyberbullying prevention and response.

~~(2) ("Education technology" or "technology" means the effective use of electronic and optical tools, including telephones, and electronic and optical pathways in helping students learn.~~

~~(3) "Network" means integrated linking of education technology systems in schools for transmission of voice, data, video, or imaging, or a combination of these.) "Learning device" means an internet-accessible computer, tablet, or other device, with an appropriate operating system, software applications, and data security, that can be used to access curricula, educational web applications and websites, and learning management systems, and with telecommunications capabilities sufficient for videoconferencing.~~

NEW SECTION. Sec. 3. A new section is added to chapter 28A.650 RCW to read as follows:

(1) Each educational service district shall provide technology consultation, procurement, and training, in consultation with teacher-librarians through school library information and technology programs as defined in RCW 28A.320.240, and as described in this section. An educational service district may meet the

requirements of this section in cooperation with one or more other educational service districts.

(2) Technology consultation involves providing technical assistance and guidance to local school districts related to technology needs and financing, and may include consultation with other entities.

(3)(a) Technology procurement involves negotiating for local school district purchasing and leasing of learning devices and peripheral devices, learning management systems, cybersecurity protection, device insurance, and other technology-related goods and services.

(b) When selecting goods and services for procurement, the educational service district must consider a variety of student needs, as well as accessibility, age appropriateness, privacy and security, data storage and transfer capacity, and telecommunications capability.

(c) Technology procurement may be performed in consultation and contract with the department of enterprise services under chapter 39.26 RCW.

(4) Technology training involves developing and offering direct services to local school districts related to staff development and capacity building to provide digital navigation services to students and their families. The educational service districts must seek to consult teacher-librarians and other relevant information technology programs to determine where there is a need and focus for this training. These services may be provided on a fee-for-service basis.

(5) Technology consultation, procurement, and training under this section must be provided to local public schools, as defined in RCW 28A.150.010, the Washington center for deaf and hard of hearing youth, and the school for the blind, in addition to local school districts. Technology training under this section may also be offered to child care providers.

(6) The educational service districts must cooperate with the office of the superintendent of public instruction to provide the data required under section 5(1) of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.650 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall develop and administer a technology grant program, as described in this section, to advance the following objectives:

(a) Attain a universal 1:1 student to learning device ratio;

(b) Expand technical support and training of school and district staff in using technology to support student learning; and

(c) Develop district-based and school-based capacity to assist students and their families in accessing and using technology to support student learning.

(2) The following entities, individually or in cooperation, may apply to the office of the superintendent of public instruction for a grant under this section: A public school as defined in RCW 28A.150.010; a school district; an educational service district; the Washington center for deaf and hard of hearing youth; and the state school for the blind.

(3) At a minimum, grant applications must include:

(a) The applicant's technology plan for accomplishing the goals of the grant program, the applicant's student demographics, including the percent of students

eligible for free and reduced-price meals, and any specialized technology needs of the applicant's students, such as students with disabilities and English learners who may need adaptive or assistive technologies; and

(b) A description of preexisting programs and funding sources used by the applicant to provide learning devices to students, staff, or both.

(4) When ranking and selecting applicants, the office of the superintendent of public instruction must prioritize both of the following:

(a) Applicants without preexisting programs to provide a device for every student and that have 30 percent or more students eligible for free and reduced-price meals; and

(b) Applicants with students who have specialized technology needs.

NEW SECTION. Sec. 5. A new section is added to chapter 28A.650 RCW to read as follows:

(1) The office of the superintendent of public instruction shall collect and analyze the following data:

(a) Demographic, distribution, and other data related to technology initiatives; and

(b) Biennial survey data on school and school district progress to accomplish the objectives listed in section 4(1) of this act.

(2) By November 1, 2022, and by November 1st every even year thereafter, the office of the superintendent of public instruction shall provide a report to the appropriate policy and fiscal committees of the legislature, in accordance with RCW 43.01.036, with:

(a) A summary of the technology initiatives data collected under subsection (1) of this section;

(b) The status of the state's progress in accomplishing the following: (i) Accelerate student access to learning devices and related goods and services; (ii) expand training programs and technical assistance on using technology to support student learning; and (iii) build the capacity of schools and districts to support digital navigation services for students and their families;

(c) Recommendations for improving the administration and oversight of the technology initiatives; and

(d) An update on innovative and collaborative activities occurring in communities across the state to support widespread public technology literacy and fluency, as well as student universal access to learning devices.

(3) By November 1, 2022, the office of the superintendent of public instruction shall survey districts, collect data, and provide a report to the appropriate policy and fiscal committees of the legislature that contains, at a minimum, the following:

(a) A list of districts that have a separate technology levy;

(b) The total amount of funding generated by the technology levies; and

(c) A detailed breakdown on how the funds generated by the technology levies are being used, including, but not limited to, the number of technology devices being purchased with those funds, personnel costs related to servicing and maintaining those devices covered by those funds, and any training or professional development for use of technology provided with those funds.

(4) For the purposes of this section, "technology initiatives" means the technology grants awarded by the office of the superintendent of public instruction under section 4 of this act, and the provision of technology

consultation, procurement, and training by educational service districts under section 3 of this act.

NEW SECTION. Sec. 6. A new section is added to chapter 28A.300 RCW to read as follows:

(1)(a) The office of the superintendent of public instruction shall establish a grant program for the purposes of supporting media literacy and digital citizenship through school district leadership teams. The office of the superintendent of public instruction shall establish and publish criteria for the grant program, and may accept gifts, grants, or endowments from public or private sources for the grant program.

(b) A school district that receives a grant under this section is not prohibited from receiving a grant in subsequent grant cycles.

(2)(a) For a school district to qualify for a grant under this section, the grant proposal must provide that the grantee create a district leadership team that develops a curriculum unit on media literacy or digital citizenship, or both, that may be integrated into one of the following areas:

- (i) Social studies;
- (ii) English language arts; or
- (iii) Health.

(b) School districts selected under the grant program are expected to evaluate the curriculum unit they develop under this subsection (2).

(c) In developing their curriculum unit, school districts selected under the grant program are encouraged to work with school district teacher-librarians or a school district library information technology program, if applicable.

(3) The establishment of the grant program under this section is subject to the availability of amounts appropriated for this specific purpose.

(4) The curriculum unit developed under this section must be made available as an open educational resource.

(5)(a) Up to 10 grants a year awarded under this section must be for establishing media literacy professional learning communities with the purpose of sharing best practices in the subject of media literacy.

(b)(i) Grant recipients under this subsection (5) are required to develop an online presence for their community to model new strategies and to share ideas, challenges, and successful practices.

(ii) Grant recipients shall attend the group meetings created by the office of the superintendent of public instruction under (c) of this subsection (5).

(c) The office of the superintendent of public instruction shall convene group meetings for the purpose of sharing best practices and strategies in media literacy education.

(d) Additional activities permitted for the use of these grants include, but are not limited to:

(i) Organizing teachers from across a school district to develop new instructional strategies and to share successful strategies;

(ii) Sharing successful practices across a group of school districts; and

(iii) Facilitating coordination between educational service districts and school districts to provide training.

(6)(a) At least one grant awarded in each award cycle must be for developing and using a curriculum that contains a focus on synthetic media as a major component.

(b) For the purposes of this section, "synthetic media" means an image, an audio recording, or a video recording of an individual's appearance, speech, or conduct that has been intentionally manipulated with the use of digital technology in a manner to create a realistic but false image, audio, or video.

(7) This section expires July 31, 2031.

NEW SECTION. Sec. 7. A new section is added to chapter 28A.300 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall convene two regional conferences on the subject of media literacy and digital citizenship.

(2) The conferences in this section should highlight the work performed by the recipients of the grant program established under section 6 of this act, as well as best practices in media literacy and digital citizenship.

(3) The locations for conferences convened under this section must include one site in western Washington and one site in eastern Washington.

(4) This section expires July 31, 2031.

NEW SECTION. Sec. 8. The following acts or parts of acts are each repealed:

(1) RCW 28A.650.005 (Findings—Intent) and 1993 c 336 s 701;

(2) RCW 28A.650.015 (Education technology plan—Educational technology advisory committee) and 2011 1st sp.s. c 43 s 725, 2011 1st sp.s. c 11 s 133, 2009 c 556 s 17, 2006 c 263 s 917, 1995 c 335 s 507, 1994 c 245 s 2, & 1993 c 336 s 703;

(3) RCW 28A.650.020 (Regional educational technology support centers—Advisory councils) and 1993 c 336 s 705;

(4) RCW 28A.650.025 (Distribution of funds for regional educational technology support centers) and 1993 c 336 s 706;

(5) RCW 28A.650.030 (Distribution of funds to expand the education statewide network) and 1993 c 336 s 707;

(6) RCW 28A.650.900 (Findings—Intent—Part headings not law—1993 c 336); and

(7) RCW 28A.650.901 (Findings—1993 c 336).

NEW SECTION. Sec. 9. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the House April 23, 2021.

Passed by the Senate April 22, 2021.

Approved by the Governor May 13, 2021.

Filed in Office of Secretary of State May 13, 2021.

CHAPTER 302

[Engrossed Second Substitute House Bill 1477]

NATIONAL 988 SYSTEM

AN ACT Relating to the implementation of the national 988 system to enhance and expand behavioral health crisis response and suicide prevention services statewide by imposing an excise tax on certain telecommunications services; amending RCW 71.24.649; reenacting and amending RCW 71.24.025 and 71.24.025; adding new sections to chapter 71.24 RCW; adding a new section to chapter 48.43 RCW; adding a new section to chapter 43.06 RCW; adding a new chapter to Title 82

RCW; creating a new section; prescribing penalties; making appropriations; providing effective dates; providing expiration dates; and declaring an emergency.

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

PART I

CRISIS CALL CENTER HUBS AND CRISIS SERVICES

NEW SECTION. Sec. 101. (1) The legislature finds that:

(a) Nearly 6,000 Washington adults and children died by suicide in the last five years, according to the federal centers for disease control and prevention, tragically reflecting a state increase of 36 percent in the last 10 years.

(b) Suicide is now the single leading cause of death for Washington young people ages 10 through 24, with total deaths 22 percent higher than for vehicle crashes.

(c) Groups with suicide rates higher than the general population include veterans, American Indians/Alaska Natives, LGBTQ youth, and people living in rural counties across the state.

(d) More than one in five Washington residents are currently living with a behavioral health disorder.

(e) The COVID-19 pandemic has increased stressors and substance use among Washington residents.

(f) An improved crisis response system will reduce reliance on emergency room services and the use of law enforcement response to behavioral health crises and will stabilize individuals in the community whenever possible.

(g) To accomplish effective crisis response and suicide prevention, Washington state must continue its integrated approach to address mental health and substance use disorder in tandem under the umbrella of behavioral health disorders, consistently with chapter 71.24 RCW and the state's approach to integrated health care. This is particularly true in the domain of suicide prevention, because of the prevalence of substance use as both a risk factor and means for suicide.

(2) The legislature intends to:

(a) Establish crisis call center hubs and expand the crisis response system in a deliberate, phased approach that includes the involvement of partners from a range of perspectives to:

(i) Save lives by improving the quality of and access to behavioral health crisis services;

(ii) Further equity in addressing mental health and substance use treatment and assure a culturally and linguistically competent response to behavioral health crises;

(iii) Recognize that, historically, crisis response placed marginalized communities, including those experiencing behavioral health crises, at disproportionate risk of poor outcomes and criminal justice involvement;

(iv) Comply with the national suicide hotline designation act of 2020 and the federal communications commission's rules adopted July 16, 2020, to assure that all Washington residents receive a consistent and effective level of 988 suicide prevention and other behavioral health crisis response and suicide prevention services no matter where they live, work, or travel in the state; and

(v) Provide higher quality support for people experiencing behavioral health crises through investment in new technology to create a crisis call center hub system to triage calls and link individuals to follow-up care.

(b) Make additional investments to enhance the crisis response system, including the expansion of crisis teams, to be known as mobile rapid response crisis teams, and deployment of a wide array of crisis stabilization services, such as 23-hour crisis stabilization units based on the living room model, crisis stabilization centers, short-term respite facilities, peer-run respite centers, and same-day walk-in behavioral health services. The overall crisis system shall contain components that operate like hospital emergency departments that accept all walk-ins and ambulance, fire, and police drop-offs. Certified peer counselors as well as peers in other roles providing support must be incorporated within the crisis system and along the continuum of crisis care.

NEW SECTION. Sec. 102. A new section is added to chapter 71.24 RCW to read as follows:

(1) Establishing the state crisis call center hubs and enhancing the crisis response system will require collaborative work between the department and the authority within their respective roles. The department shall have primary responsibility for establishing and designating the crisis call center hubs. The authority shall have primary responsibility for developing and implementing the crisis response system and services to support the work of the crisis call center hubs. In any instance in which one agency is identified as the lead, the expectation is that agency will be communicating and collaborating with the other to ensure seamless, continuous, and effective service delivery within the statewide crisis response system.

(2) The department shall provide adequate funding for the state's crisis call centers to meet an expected increase in the use of the call centers based on the implementation of the 988 crisis hotline. The funding level shall be established at a level anticipated to achieve an in-state call response rate of at least 90 percent by July 22, 2022. The funding level shall be determined by considering standards and cost per call predictions provided by the administrator of the national suicide prevention lifeline, call volume predictions, guidance on crisis call center performance metrics, and necessary technology upgrades.

(3) The department shall adopt rules by July 1, 2023, to establish standards for designation of crisis call centers as crisis call center hubs. The department shall collaborate with the authority and other agencies to assure coordination and availability of services, and shall consider national guidelines for behavioral health crisis care as determined by the federal substance abuse and mental health services administration, national behavioral health accrediting bodies, and national behavioral health provider associations to the extent they are appropriate, and recommendations from the crisis response improvement strategy committee created in section 103 of this act.

(4) The department shall designate crisis call center hubs by July 1, 2024. The crisis call center hubs shall provide crisis intervention services, triage, care coordination, referrals, and connections to individuals contacting the 988 crisis hotline from any jurisdiction within Washington 24 hours a day, seven days a week, using the system platform developed under subsection (5) of this section.

(a) To be designated as a crisis call center hub, the applicant must demonstrate to the department the ability to comply with the requirements of this

section and to contract to provide crisis call center hub services. The department may revoke the designation of any crisis call center hub that fails to substantially comply with the contract.

(b) The contracts entered shall require designated crisis call center hubs to:

(i) Have an active agreement with the administrator of the national suicide prevention lifeline for participation within its network;

(ii) Meet the requirements for operational and clinical standards established by the department and based upon the national suicide prevention lifeline best practices guidelines and other recognized best practices;

(iii) Employ highly qualified, skilled, and trained clinical staff who have sufficient training and resources to provide empathy to callers in acute distress, de-escalate crises, assess behavioral health disorders and suicide risk, triage to system partners, and provide case management and documentation. Call center staff shall be trained to make every effort to resolve cases in the least restrictive environment and without law enforcement involvement whenever possible. Call center staff shall coordinate with certified peer counselors to provide follow-up and outreach to callers in distress as available. It is intended for transition planning to include a pathway for continued employment and skill advancement as needed for experienced crisis call center employees;

(iv) Collaborate with the authority, the national suicide prevention lifeline, and veterans crisis line networks to assure consistency of public messaging about the 988 crisis hotline; and

(v) Provide data and reports and participate in evaluations and related quality improvement activities, according to standards established by the department in collaboration with the authority.

(c) The department and the authority shall incorporate recommendations from the crisis response improvement strategy committee created under section 103 of this act in its agreements with crisis call center hubs, as appropriate.

(5) The department and authority must coordinate to develop the technology and platforms necessary to manage and operate the behavioral health crisis response and suicide prevention system. The technologies developed must include:

(a) A new technologically advanced behavioral health and suicide prevention crisis call center system platform using technology demonstrated to be interoperable across crisis and emergency response systems used throughout the state, such as 911 systems, emergency medical services systems, and other nonbehavioral health crisis services, for use in crisis call center hubs designated by the department under subsection (4) of this section. This platform, which shall be fully funded by July 1, 2023, shall be developed by the department and must include the capacity to receive crisis assistance requests through phone calls, texts, chats, and other similar methods of communication that may be developed in the future that promote access to the behavioral health crisis system; and

(b) A behavioral health integrated client referral system capable of providing system coordination information to crisis call center hubs and the other entities involved in behavioral health care. This system shall be developed by the authority.

(6) In developing the new technologies under subsection (5) of this section, the department and the authority must coordinate to designate a primary technology system to provide each of the following:

(a) Access to real-time information relevant to the coordination of behavioral health crisis response and suicide prevention services, including:

(i) Real-time bed availability for all behavioral health bed types, including but not limited to crisis stabilization services, triage facilities, psychiatric inpatient, substance use disorder inpatient, withdrawal management, peer-run respite centers, and crisis respite services, inclusive of both voluntary and involuntary beds, for use by crisis response workers, first responders, health care providers, emergency departments, and individuals in crisis; and

(ii) Real-time information relevant to the coordination of behavioral health crisis response and suicide prevention services for a person, including the means to access:

(A) Information about any less restrictive alternative treatment orders or mental health advance directives related to the person; and

(B) Information necessary to enable the crisis call center hub to actively collaborate with emergency departments, primary care providers and behavioral health providers within managed care organizations, behavioral health administrative services organizations, and other health care payers to establish a safety plan for the person in accordance with best practices and provide the next steps for the person's transition to follow-up noncrisis care. To establish information-sharing guidelines that fulfill the intent of this section the authority shall consider input from the confidential information compliance and coordination subcommittee established under section 103 of this act;

(b) The means to request deployment of appropriate crisis response services, which may include mobile rapid response crisis teams, co-responder teams, designated crisis responders, fire department mobile integrated health teams, or community assistance referral and educational services programs under RCW 35.21.930, according to best practice guidelines established by the authority, and track local response through global positioning technology; and

(c) The means to track the outcome of the 988 call to enable appropriate follow up, cross-system coordination, and accountability, including as appropriate: (i) Any immediate services dispatched and reports generated from the encounter; (ii) the validation of a safety plan established for the caller in accordance with best practices; (iii) the next steps for the caller to follow in transition to noncrisis follow-up care, including a next-day appointment for callers experiencing urgent, symptomatic behavioral health care needs; and (iv) the means to verify and document whether the caller was successful in making the transition to appropriate noncrisis follow-up care indicated in the safety plan for the person, to be completed either by the care coordinator provided through the person's managed care organization, health plan, or behavioral health administrative services organization, or if such a care coordinator is not available or does not follow through, by the staff of the crisis call center hub;

(d) A means to facilitate actions to verify and document whether the person's transition to follow up noncrisis care was completed and services offered, to be performed by a care coordinator provided through the person's managed care organization, health plan, or behavioral health administrative

services organization, or if such a care coordinator is not available or does not follow through, by the staff of the crisis call center hub;

(e) The means to provide geographically, culturally, and linguistically appropriate services to persons who are part of high-risk populations or otherwise have need of specialized services or accommodations, and to document these services or accommodations; and

(f) When appropriate, consultation with tribal governments to ensure coordinated care in government-to-government relationships, and access to dedicated services to tribal members.

(7) To implement this section the department and the authority shall collaborate with the state enhanced 911 coordination office, emergency management division, and military department to develop technology that is demonstrated to be interoperable between the 988 crisis hotline system and crisis and emergency response systems used throughout the state, such as 911 systems, emergency medical services systems, and other nonbehavioral health crisis services, as well as the national suicide prevention lifeline, to assure cohesive interoperability, develop training programs and operations for both 911 public safety telecommunicators and crisis line workers, develop suicide and other behavioral health crisis assessments and intervention strategies, and establish efficient and equitable access to resources via crisis hotlines.

(8) The authority shall:

(a) Collaborate with county authorities and behavioral health administrative services organizations to develop procedures to dispatch behavioral health crisis services in coordination with crisis call center hubs to effectuate the intent of this section;

(b) Establish formal agreements with managed care organizations and behavioral health administrative services organizations by January 1, 2023, to provide for the services, capacities, and coordination necessary to effectuate the intent of this section, which shall include a requirement to arrange next-day appointments for persons contacting the 988 crisis hotline experiencing urgent, symptomatic behavioral health care needs with geographically, culturally, and linguistically appropriate primary care or behavioral health providers within the person's provider network, or, if uninsured, through the person's behavioral health administrative services organization;

(c) Create best practices guidelines by July 1, 2023, for deployment of appropriate and available crisis response services by crisis call center hubs to assist 988 hotline callers to minimize nonessential reliance on emergency room services and the use of law enforcement, considering input from relevant stakeholders and recommendations made by the crisis response improvement strategy committee created under section 103 of this act;

(d) Develop procedures to allow appropriate information sharing and communication between and across crisis and emergency response systems for the purpose of real-time crisis care coordination including, but not limited to, deployment of crisis and outgoing services, follow-up care, and linked, flexible services specific to crisis response; and

(e) Establish guidelines to appropriately serve high-risk populations who request crisis services. The authority shall design these guidelines to promote behavioral health equity for all populations with attention to circumstances of race, ethnicity, gender, socioeconomic status, sexual orientation, and geographic

location, and include components such as training requirements for call response workers, policies for transferring such callers to an appropriate specialized center or subnetwork within or external to the national suicide prevention lifeline network, and procedures for referring persons who access the 988 crisis hotline to linguistically and culturally competent care.

NEW SECTION. Sec. 103. A new section is added to chapter 71.24 RCW to read as follows:

(1) The crisis response improvement strategy committee is established for the purpose of providing advice in developing an integrated behavioral health crisis response and suicide prevention system containing the elements described in this section. The work of the committee shall be received and reviewed by a steering committee, which shall in turn form subcommittees to provide the technical analysis and input needed to formulate system change recommendations.

(2) The office of financial management shall contract with the behavioral health institute at Harborview medical center to facilitate and provide staff support to the steering committee and to the crisis response improvement strategy committee.

(3) The steering committee shall select three cochairs from among its members to lead the crisis response improvement strategy committee. The crisis response improvement strategy committee shall consist of the following members, who shall be appointed or requested by the authority, unless otherwise noted:

(a) The director of the authority, or his or her designee, who shall also serve on the steering committee;

(b) The secretary of the department, or his or her designee, who shall also serve on the steering committee;

(c) A member representing the office of the governor, who shall also serve on the steering committee;

(d) The Washington state insurance commissioner, or his or her designee;

(e) Up to two members representing federally recognized tribes, one from eastern Washington and one from western Washington, who have expertise in behavioral health needs of their communities;

(f) One member from each of the two largest caucuses of the senate, one of whom shall also be designated to participate on the steering committee, to be appointed by the president of the senate;

(g) One member from each of the two largest caucuses of the house of representatives, one of whom shall also be designated to participate on the steering committee, to be appointed by the speaker of the house of representatives;

(h) The director of the Washington state department of veterans affairs, or his or her designee;

(i) The state enhanced 911 coordinator, or his or her designee;

(j) A member with lived experience of a suicide attempt;

(k) A member with lived experience of a suicide loss;

(l) A member with experience of participation in the crisis system related to lived experience of a mental health disorder;

(m) A member with experience of participation in the crisis system related to lived experience with a substance use disorder;

(n) A member representing each crisis call center in Washington that is contracted with the national suicide prevention hotline;

(o) Up to two members representing behavioral health administrative services organizations, one from an urban region and one from a rural region;

(p) A member representing the Washington council for behavioral health;

(q) A member representing the association of alcoholism and addiction programs of Washington state;

(r) A member representing the Washington state hospital association;

(s) A member representing the national alliance on mental illness Washington;

(t) A member representing the behavioral health interests of persons of color recommended by Sea Mar community health centers;

(u) A member representing the behavioral health interests of persons of color recommended by Asian counseling and referral service;

(v) A member representing law enforcement;

(w) A member representing a university-based suicide prevention center of excellence;

(x) A member representing an emergency medical services department with a CARES program;

(y) A member representing medicaid managed care organizations, as recommended by the association of Washington healthcare plans;

(z) A member representing commercial health insurance, as recommended by the association of Washington healthcare plans;

(aa) A member representing the Washington association of designated crisis responders;

(bb) A member representing the children and youth behavioral health work group;

(cc) A member representing a social justice organization addressing police accountability and the use of deadly force; and

(dd) A member representing an organization specializing in facilitating behavioral health services for LGBTQ populations.

(4) The crisis response improvement strategy committee shall assist the steering committee to identify potential barriers and make recommendations necessary to implement and effectively monitor the progress of the 988 crisis hotline in Washington and make recommendations for the statewide improvement of behavioral health crisis response and suicide prevention services.

(5) The steering committee must develop a comprehensive assessment of the behavioral health crisis response and suicide prevention services system by January 1, 2022, including an inventory of existing statewide and regional behavioral health crisis response, suicide prevention, and crisis stabilization services and resources, and taking into account capital projects which are planned and funded. The comprehensive assessment shall identify:

(a) Statewide and regional insufficiencies and gaps in behavioral health crisis response and suicide prevention services and resources needed to meet population needs;

(b) Quantifiable goals for the provision of statewide and regional behavioral health crisis services and targeted deployment of resources, which consider factors such as reported rates of involuntary commitment detentions, single-bed

certifications, suicide attempts and deaths, substance use disorder-related overdoses, overdose or withdrawal-related deaths, and incarcerations due to a behavioral health incident;

(c) A process for establishing outcome measures, benchmarks, and improvement targets, for the crisis response system; and

(d) Potential funding sources to provide statewide and regional behavioral health crisis services and resources.

(6) The steering committee, taking into account the comprehensive assessment work under subsection (5) of this section as it becomes available, after discussion with the crisis response improvement strategy committee and hearing reports from the subcommittees, shall report on the following:

(a) A recommended vision for an integrated crisis network in Washington that includes, but is not limited to: An integrated 988 crisis hotline and crisis call center hubs; mobile rapid response crisis teams; mobile crisis response units for youth, adult, and geriatric population; a range of crisis stabilization services; an integrated involuntary treatment system; access to peer-run services, including peer-run respite centers; adequate crisis respite services; and data resources;

(b) Recommendations to promote equity in services for individuals of diverse circumstances of culture, race, ethnicity, gender, socioeconomic status, sexual orientation, and for individuals in tribal, urban, and rural communities;

(c) Recommendations for a work plan with timelines to implement appropriate local responses to calls to the 988 crisis hotline within Washington in accordance with the time frames required by the national suicide hotline designation act of 2020;

(d) The necessary components of each of the new technologically advanced behavioral health crisis call center system platform and the new behavioral health integrated client referral system, as provided under section 102 of this act, for assigning and tracking response to behavioral health crisis calls and providing real-time bed and outpatient appointment availability to 988 operators, emergency departments, designated crisis responders, and other behavioral health crisis responders, which shall include but not be limited to:

(i) Identification of the components crisis call center hub staff need to effectively coordinate crisis response services and find available beds and available primary care and behavioral health outpatient appointments;

(ii) Evaluation of existing bed tracking models currently utilized by other states and identifying the model most suitable to Washington's crisis behavioral health system;

(iii) Evaluation of whether bed tracking will improve access to all behavioral health bed types and other impacts and benefits; and

(iv) Exploration of how the bed tracking and outpatient appointment availability platform can facilitate more timely access to care and other impacts and benefits;

(e) The necessary systems and capabilities that licensed or certified behavioral health agencies, behavioral health providers, and any other relevant parties will require to report, maintain, and update inpatient and residential bed and outpatient service availability in real time to correspond with the crisis call center system platform or behavioral health integrated client referral system identified in section 102 of this act, as appropriate;

(f) A work plan to establish the capacity for the crisis call center hubs to integrate Spanish language interpreters and Spanish-speaking call center staff into their operations, and to ensure the availability of resources to meet the unique needs of persons in the agricultural community who are experiencing mental health stresses, which explicitly addresses concerns regarding confidentiality;

(g) A work plan with timelines to enhance and expand the availability of community-based mobile rapid response crisis teams based in each region, including specialized teams as appropriate to respond to the unique needs of youth, including American Indian and Alaska Native youth and LGBTQ youth, and geriatric populations, including older adults of color and older adults with comorbid dementia;

(h) The identification of other personal and systemic behavioral health challenges which implementation of the 988 crisis hotline has the potential to address in addition to suicide response and behavioral health crises;

(i) The development of a plan for the statewide equitable distribution of crisis stabilization services, behavioral health beds, and peer-run respite services;

(j) Recommendations concerning how health plans, managed care organizations, and behavioral health administrative services organizations shall fulfill requirements to provide assignment of a care coordinator and to provide next-day appointments for enrollees who contact the behavioral health crisis system;

(k) Appropriate allocation of crisis system funding responsibilities among medicaid managed care organizations, commercial insurers, and behavioral health administrative services organizations;

(l) Recommendations for constituting a statewide behavioral health crisis response and suicide prevention oversight board or similar structure for ongoing monitoring of the behavioral health crisis system and where this should be established; and

(m) Cost estimates for each of the components of the integrated behavioral health crisis response and suicide prevention system.

(7) The steering committee shall consist only of members appointed to the steering committee under this section. The steering committee shall convene the committee, form subcommittees, assign tasks to the subcommittees, and establish a schedule of meetings and their agendas.

(8) The subcommittees of the crisis response improvement strategy committee shall focus on discrete topics. The subcommittees may include participants who are not members of the crisis response improvement strategy committee, as needed to provide professional expertise and community perspectives. Each subcommittee shall have at least one member representing the interests of stakeholders in a rural community, at least one member representing the interests of stakeholders in an urban community, and at least one member representing the interests of youth stakeholders. The steering committee shall form the following subcommittees:

(a) A Washington tribal 988 subcommittee, which shall examine and make recommendations with respect to the needs of tribes related to the 988 system, and which shall include representation from the American Indian health commission;

(b) A credentialing and training subcommittee, to recommend workforce needs and requirements necessary to implement this act, including minimum education requirements such as whether it would be appropriate to allow crisis call center hubs to employ clinical staff without a bachelor's degree or master's degree based on the person's skills and life or work experience;

(c) A technology subcommittee, to examine issues and requirements related to the technology needed to implement this act;

(d) A cross-system crisis response collaboration subcommittee, to examine and define the complementary roles and interactions between mobile rapid response crisis teams, designated crisis responders, law enforcement, emergency medical services teams, 911 and 988 operators, public and private health plans, behavioral health crisis response agencies, nonbehavioral health crisis response agencies, and others needed to implement this act;

(e) A confidential information compliance and coordination subcommittee, to examine issues relating to sharing and protection of health information needed to implement this act; and

(f) Any other subcommittee needed to facilitate the work of the committee, at the discretion of the steering committee.

(9) The proceedings of the crisis response improvement strategy committee must be open to the public and invite testimony from a broad range of perspectives. The committee shall seek input from tribes, veterans, the LGBTQ community, and communities of color to help discern how well the crisis response system is currently working and recommend ways to improve the crisis response system.

(10) Legislative members of the crisis response improvement strategy committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(11) The steering committee, with the advice of the crisis response improvement strategy committee, shall provide a progress report and the result of its comprehensive assessment under subsection (5) of this section to the governor and appropriate policy and fiscal committee of the legislature by January 1, 2022. The steering committee shall report the crisis response improvement strategy committee's further progress and the steering committee's recommendations related to crisis call center hubs to the governor and appropriate policy and fiscal committees of the legislature by January 1, 2023. The steering committee shall provide its final report to the governor and the appropriate policy and fiscal committees of the legislature by January 1, 2024.

(12) This section expires June 30, 2024.

NEW SECTION. Sec. 104. A new section is added to chapter 71.24 RCW to read as follows:

(1) The steering committee of the crisis response improvement strategy committee established under section 103 of this act must monitor and make recommendations related to the funding of crisis response services out of the account created in section 205 of this act. The crisis response improvement strategy steering committee must analyze:

(a) The projected expenditures from the account created under section 205 of this act, taking into account call volume, utilization projections, and other operational impacts;

(b) The costs of providing statewide coverage of mobile rapid response crisis teams or other behavioral health first responder services recommended by the crisis response improvement strategy committee, based on 988 crisis hotline utilization and taking into account existing state and local funding;

(c) Potential options to reduce the tax imposed in section 202 of this act, given the expected level of costs related to infrastructure development and operational support of the 988 crisis hotline and crisis call center hubs; and

(d) The viability of providing funding for in-person mobile rapid response crisis services or other behavioral health first responder services recommended by the crisis response improvement strategy committee funded from the account created in section 205 of this act, given the expected revenues to the account and the level of expenditures required under (a) of this subsection.

(2) If the steering committee finds that funding in-person mobile rapid response crisis services or other behavioral health first responder services recommended by the crisis response improvement strategy committee is viable from the account given the level of expenditures necessary to support the infrastructure development and operational support of the 988 crisis hotline and crisis call center hubs, the steering committee must analyze options for the location and composition of such services given need and available resources with the requirement that funds from the account supplement, not supplant, existing behavioral health crisis funding.

(3) The work of the steering committee under this section must be facilitated by the behavioral health institute at Harborview medical center through its contract with the office of financial management under section 103 of this act with assistance provided by staff from senate committee services, the office of program research, and the office of financial management.

(4) The steering committee shall submit preliminary recommendations to the governor and the appropriate policy and fiscal committees of the legislature by January 1, 2022, and final recommendations to the governor and the appropriate policy and fiscal committees of the legislature by January 1, 2023.

(5) This section expires on July 1, 2023.

NEW SECTION. Sec. 105. A new section is added to chapter 71.24 RCW to read as follows:

(1) The department and authority shall provide an annual report regarding the usage of the 988 crisis hotline, call outcomes, and the provision of crisis services inclusive of mobile rapid response crisis teams and crisis stabilization services. The report shall be submitted to the governor and the appropriate committees of the legislature each November beginning in 2023. The report shall include information on the fund deposits and expenditures of the account created in section 205 of this act.

(2) The department and authority shall coordinate with the department of revenue, and any other agency that is appropriated funding under the account created in section 205 of this act, to develop and submit information to the federal communications commission required for the completion of fee accountability reports pursuant to the national suicide hotline designation act of 2020.

(3) The joint legislative audit and review committee shall schedule an audit to begin after the full implementation of this act, to provide transparency as to how funds from the statewide 988 behavioral health crisis response and suicide prevention line account have been expended, and to determine whether funds used to provide acute behavioral health, crisis outreach, and stabilization services are being used to supplement services identified as baseline services in the comprehensive analysis provided under section 103 of this act, or to supplant baseline services. The committee shall provide a report by November 1, 2027, which includes recommendations as to the adequacy of the funding provided to accomplish the intent of the act and any other recommendations for alteration or improvement.

NEW SECTION. Sec. 106. A new section is added to chapter 48.43 RCW to read as follows:

Health plans issued or renewed on or after January 1, 2023, must make next-day appointments available to enrollees experiencing urgent, symptomatic behavioral health conditions to receive covered behavioral health services. The appointment may be with a licensed provider other than a licensed behavioral health professional, as long as that provider is acting within their scope of practice, and may be provided through telemedicine consistent with RCW 48.43.735. Need for urgent symptomatic care is associated with the presentation of behavioral health signs or symptoms that require immediate attention, but are not emergent.

NEW SECTION. Sec. 107. A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor shall appoint a 988 hotline and behavioral health crisis system coordinator to provide project coordination and oversight for the implementation and administration of the 988 crisis hotline, other requirements of this act, and other projects supporting the behavioral health crisis system. The coordinator shall:

(a) Oversee the collaboration between the department of health and the health care authority in their respective roles in supporting the crisis call center hubs, providing the necessary support services for 988 callers, and establishing adequate requirements and guidance for their contractors to fulfill the requirements of this act;

(b) Ensure coordination and facilitate communication between stakeholders such as crisis call center hub contractors, behavioral health administrative service organizations, county authorities, other crisis hotline centers, managed care organizations, and, in collaboration with the state enhanced 911 coordination office, with 911 emergency communications systems;

(c) Review the development of adequate and consistent training for crisis call center personnel and, in coordination with the state enhanced 911 coordination office, for 911 operators with respect to their interactions with the crisis hotline center; and

(d) Coordinate implementation of other behavioral health initiatives among state agencies and educational institutions, as appropriate, including coordination of data between agencies.

(2) This section expires June 30, 2024.

NEW SECTION. Sec. 108. A new section is added to chapter 71.24 RCW to read as follows:

(1) When acting in their statutory capacities pursuant to this act, the state, department, authority, state enhanced 911 coordination office, emergency management division, military department, any other state agency, and their officers, employees, and agents are deemed to be carrying out duties owed to the public in general and not to any individual person or class of persons separate and apart from the public. Nothing contained in this act may be construed to evidence a legislative intent that the duties to be performed by the state, department, authority, state enhanced 911 coordination office, emergency management division, military department, any other state agency, and their officers, employees, and agents, as required by this act, are owed to any individual person or class of persons separate and apart from the public in general.

(2) Each crisis call center hub designated by the department under any contract or agreement pursuant to this act shall be deemed to be an independent contractor, separate and apart from the department and the state.

NEW SECTION. Sec. 109. A new section is added to chapter 71.24 RCW to read as follows:

For the purpose of development and implementation of technology and platforms by the department and the authority under section 102 of this act, the department and the authority shall create a sophisticated technical and operational plan. The plan shall not conflict with, nor delay, the department meeting and satisfying existing 988 federal requirements that are already underway and must be met by July 16, 2022, nor is it intended to delay the initial planning phase of the project, or the planning and deliverables tied to any grant award received and allotted by the department or the authority prior to April 1, 2021. To the extent that funds are appropriated for this specific purpose, the department and the authority must contract for a consultant to critically analyze the development and implementation technology and platforms and operational challenges to best position the solutions for success. Prior to initiation of a new information technology development, which does not include the initial planning phase of this project or any contracting needed to complete the initial planning phase, the department and authority shall submit the technical and operational plan to the governor, office of financial management, steering committee of the crisis response improvement strategy committee created under section 103 of this act, and appropriate policy and fiscal committees of the legislature, which shall include the committees referenced in this section. The plan must be approved by the office of the chief information officer, the director of the office of financial management, and the steering committee of the crisis response improvement strategy committee, which shall consider any feedback received from the senate ways and means committee chair, the house of representatives appropriations committee chair, the senate environment, energy and technology committee chair, the senate behavioral health subcommittee chair, and the house of representatives health care and wellness committee chair, before any funds are expended for the solutions, other than those funds needed to complete the initial planning phase. A draft technical and operational plan must be submitted no later than January 1, 2022, and a final plan by August 31, 2022.

The plan submitted must include, but not be limited to:

- (1) Data management;
- (2) Data security;
- (3) Data flow;
- (4) Data access and permissions;
- (5) Protocols to ensure staff are following proper health information privacy procedures;
- (6) Cybersecurity requirements and how to meet these;
- (7) Service level agreements by vendor;
- (8) Maintenance and operations costs;
- (9) Identification of what existing software as a service products might be applicable, to include the:
 - (a) Vendor name;
 - (b) Vendor offerings to include product module and functionality detail and whether each represent add-ons that must be paid separately;
 - (c) Vendor pricing structure by year through implementation; and
 - (d) Vendor pricing structure by year post implementation;
- (10) Integration limitations by system;
- (11) Data analytic and performance metrics to be required by system;
- (12) Liability;
- (13) Which agency will host the electronic health record software as a service;
- (14) Regulatory agency;
- (15) The timeline by fiscal year from initiation to implementation for each solution in this act;
- (16) How to plan in a manner that ensures efficient use of state resources and maximizes federal financial participation; and
- (17) A complete comprehensive business plan analysis.

PART II

TAX

NEW SECTION. Sec. 201. DEFINITIONS. (1) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (a) "988 crisis hotline" has the same meaning as in RCW 71.24.025.
- (b) "Crisis call center hub" has the same meaning as in RCW 71.24.025.
- (2) The definitions in RCW 82.14B.020 apply to this chapter.

NEW SECTION. Sec. 202. TAX IMPOSED. (1)(a) A statewide 988 behavioral health crisis response and suicide prevention line tax is imposed on the use of all radio access lines:

(i) By subscribers whose place of primary use is located within the state in the amount set forth in (a)(ii) of this subsection (1) per month for each radio access line. The tax must be uniform for each radio access line under this subsection (1); and

(ii) By consumers whose retail transaction occurs within the state in the amount set forth in this subsection (1)(a)(ii) per retail transaction. The amount of tax must be uniform for each retail transaction under this subsection (1) and is as follows:

(A) Beginning October 1, 2021, through December 31, 2022, the tax rate is 24 cents for each radio access line; and

(B) Beginning January 1, 2023, the tax rate is 40 cents for each radio access line.

(b) The tax imposed under this subsection (1) must be remitted to the department by radio communications service companies, including those companies that resell radio access lines, and sellers of prepaid wireless telecommunications service, on a tax return provided by the department. Tax proceeds must be deposited by the treasurer into the statewide 988 behavioral health crisis response and suicide prevention line account created in section 205 of this act.

(c) For the purposes of this subsection (1), the retail transaction is deemed to occur at the location where the transaction is sourced under RCW 82.32.520(3)(c).

(2) A statewide 988 behavioral health crisis response and suicide prevention line tax is imposed on all interconnected voice over internet protocol service lines in the state. The amount of tax must be uniform for each line and must be levied on no more than the number of voice over internet protocol service lines on an account that is capable of simultaneous unrestricted outward calling to the public switched telephone network. The tax imposed under this subsection (2) must be remitted to the department by interconnected voice over internet protocol service companies on a tax return provided by the department. The amount of tax for each interconnected voice over internet protocol service line whose place of primary use is located in the state is as follows:

(a) Beginning October 1, 2021, through December 31, 2022, the tax rate is 24 cents for an interconnected voice over internet protocol service line; and

(b) Beginning January 1, 2023, the tax rate is 40 cents for an interconnected voice over internet protocol service line.

(3) A statewide 988 behavioral health crisis response and suicide prevention line tax is imposed on all switched access lines in the state. The amount of tax must be uniform for each line and must be levied on no more than the number of switched access lines on an account that is capable of simultaneous unrestricted outward calling to the public switched telephone network. The tax imposed under this subsection (3) must be remitted to the department by local exchange companies on a tax return provided by the department. The amount of tax for each switched access line whose place of primary use is located in the state is as follows:

(a) Beginning October 1, 2021, through December 31, 2022, the tax rate is 24 cents for each switched access line; and

(b) Beginning January 1, 2023, the tax rate is 40 cents for each switched access line.

(4) Tax proceeds collected pursuant to this section must be deposited by the treasurer into the statewide 988 behavioral health crisis response and suicide prevention line account created in section 205 of this act.

NEW SECTION. Sec. 203. COLLECTION OF TAX. (1) Except as provided otherwise in subsection (2) of this section:

(a) The statewide 988 behavioral health crisis response and suicide prevention line tax on radio access lines must be collected from the subscriber by the radio communications service company, including those companies that resell radio access lines, providing the radio access line to the subscriber, and the seller of prepaid wireless telecommunications services.

(b) The statewide 988 behavioral health crisis response and suicide prevention line tax on interconnected voice over internet protocol service lines must be collected from the subscriber by the interconnected voice over internet protocol service company providing the interconnected voice over internet protocol service line to the subscriber.

(c) The statewide 988 behavioral health crisis response and suicide prevention line tax on switched access lines must be collected from the subscriber by the local exchange company.

(d) The amount of the tax must be stated separately on the billing statement which is sent to the subscriber.

(2)(a) The statewide 988 behavioral health crisis response and suicide prevention line tax imposed by this chapter must be collected from the consumer by the seller of a prepaid wireless telecommunications service for each retail transaction occurring in this state.

(b) The department must transfer all tax proceeds remitted by a seller under this subsection (2) to the statewide 988 behavioral health crisis response and suicide prevention line account created in section 205 of this act.

(c) The taxes required by this subsection to be collected by the seller must be separately stated in any sales invoice or instrument of sale provided to the consumer.

NEW SECTION. Sec. 204. PAYMENT AND COLLECTION. (1)(a) The statewide 988 behavioral health crisis response and suicide prevention line tax imposed by this chapter must be paid by the subscriber to the radio communications service company providing the radio access line, the local exchange company, or the interconnected voice over internet protocol service company providing the interconnected voice over internet protocol service line.

(b) Each radio communications service company, each local exchange company, and each interconnected voice over internet protocol service company, must collect from the subscriber the full amount of the taxes payable. The statewide 988 behavioral health crisis response and suicide prevention line tax required by this chapter to be collected by a company or seller, are deemed to be held in trust by the company or seller until paid to the department. Any radio communications service company, local exchange company, or interconnected voice over internet protocol service company that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any radio communications service company, local exchange company, or interconnected voice over internet protocol service company fails to collect the statewide 988 behavioral health crisis response and suicide prevention line tax or, after collecting the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the company or seller is personally liable to the state for the amount of the tax, unless the company or seller has taken from the buyer in good faith documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or consumer or is otherwise not liable for the statewide 988 behavioral health crisis response and suicide prevention line tax.

(3) The amount of tax, until paid by the subscriber to the radio communications service company, local exchange company, the interconnected voice over internet protocol service company, or to the department, constitutes a debt from the subscriber to the company, or from the consumer to the seller. Any company or seller that fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber or consumer who refuses to pay any tax due under this chapter is guilty of a misdemeanor. The statewide 988 behavioral health crisis response and suicide prevention line tax required by this chapter to be collected by the radio communications service company, local exchange company, or interconnected voice over internet protocol service company must be stated separately on the billing statement that is sent to the subscriber.

(4) If a subscriber has failed to pay to the radio communications service company, local exchange company, or interconnected voice over internet protocol service company, the statewide 988 behavioral health crisis response and suicide prevention line tax imposed by this chapter and the company or seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber or consumer for collection of the tax, in which case a penalty of 10 percent may be added to the amount of the tax for failure of the subscriber or consumer to pay the tax to the company or seller, regardless of when the tax is collected by the department.

NEW SECTION. Sec. 205. ACCOUNT CREATION. (1) The statewide 988 behavioral health crisis response and suicide prevention line account is created in the state treasury. All receipts from the statewide 988 behavioral health crisis response and suicide prevention line tax imposed pursuant to this chapter must be deposited into the account. Moneys may only be spent after appropriation.

(2) Expenditures from the account may only be used for (a) ensuring the efficient and effective routing of calls made to the 988 crisis hotline to an appropriate crisis hotline center or crisis call center hub; and (b) personnel and the provision of acute behavioral health, crisis outreach, and crisis stabilization services, as defined in RCW 71.24.025, by directly responding to the 988 crisis hotline.

(3) Moneys in the account may not be used to supplant general fund appropriations for behavioral health services or for medicaid covered services to individuals enrolled in the medicaid program.

NEW SECTION. Sec. 206. PREEMPTION. A city or county may not impose a tax, measured on a per line basis, on radio access lines, interconnected voice over internet protocol service lines, or switched access lines, for the purpose of ensuring the efficient and effective routing of calls made to the 988 crisis hotline to an appropriate crisis hotline center or crisis call center hub; or providing personnel or acute behavioral health, crisis outreach, or crisis stabilization services, as defined in RCW 71.24.025, associated with directly responding to the 988 crisis hotline.

PART III
APPROPRIATIONS

NEW SECTION. Sec. 301. The appropriations in this section are provided to the department of health and are subject to the following conditions and limitations:

(1) The sum of \$23,016,000, or as much thereof as may be necessary, is appropriated for the fiscal biennium ending June 30, 2023, from the statewide 988 behavioral health crisis response and suicide prevention line account. The amount in this subsection is provided solely for the department to route calls to and contract for the operations of call centers and call center hubs. This includes funding for operations, training, and call center information technology and program staff.

(2) The sum of \$1,000,000, or as much thereof as may be necessary, is appropriated for the fiscal biennium ending June 30, 2023, from the statewide 988 behavioral health crisis response and suicide prevention line account. The amount in this subsection is provided solely for the department to contract for the development and operations of a tribal crisis line.

(3) The following sums, or so much thereof as may be necessary, are each appropriated: \$189,000 from the statewide 988 behavioral health crisis response and suicide prevention line account for the fiscal biennium ending June 30, 2023; and \$80,000 from the state general fund—federal account for the fiscal biennium ending June 30, 2023. The amounts in this subsection are provided solely for the department to provide staff support necessary to critically analyze the planning, development, and implementation of technology solutions to create the technical and operational plan pursuant to section 109 of this act.

(4) The sum of \$420,000, or as much thereof as may be necessary, is appropriated for the fiscal biennium ending June 30, 2023, from the statewide 988 behavioral health crisis response and suicide prevention line account. The amount in this subsection is provided solely for the department to participate in and provide support to the committee created in section 103 of this act.

NEW SECTION. Sec. 302. The appropriations in this section are provided to the state health care authority and are subject to the following conditions and limitations:

(1) The following sums, or as much thereof as may be necessary, are each appropriated: \$770,000 from the statewide 988 behavioral health crisis response and suicide prevention line account for the fiscal biennium ending June 30, 2023; and \$326,000 from the state general fund—federal account for the fiscal biennium ending June 30, 2023. The amounts in this subsection are provided solely for the authority to provide staff and contracted support necessary to critically analyze the planning, development, and implementation of technology solutions to create the technical and operational plan pursuant to section 109 of this act.

(2) The following sums, or so much thereof as may be necessary, are each appropriated: \$644,000 from the statewide 988 behavioral health crisis response and suicide prevention line account for the fiscal biennium ending June 30, 2023; and \$127,000 from the state general fund—federal account for the fiscal biennium ending June 30, 2023. The amounts in this subsection are provided

solely for the authority to participate in and provide support to the committee created in section 103 of this act.

(3) The following sums, or as much thereof as may be necessary, are each appropriated: \$381,000 from the statewide 988 behavioral health crisis response and suicide prevention line account for the fiscal biennium ending June 30, 2023; and \$381,000 from the state general fund—federal account for the fiscal biennium ending June 30, 2023. The amounts in this subsection are provided solely for the authority to fulfill its duties as described in section 102(8) of this act. This includes funding for collaboration with managed care organizations, county authorities, and behavioral health administrative services organizations related to crisis services, and the development of processes and best practices for crisis services.

NEW SECTION. Sec. 303. The sum of \$200,000, or as much thereof as may be necessary, is appropriated for the fiscal biennium ending June 30, 2023, from the statewide 988 behavioral health crisis response and suicide prevention line account to the office of financial management and provided solely to provide staff and contracted services support to the committee created in section 103 of this act.

PART IV DEFINITIONS AND MISCELLANEOUS

Sec. 401. RCW 71.24.025 and 2020 c 256 s 201 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(3) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

(4) "Authority" means the Washington state health care authority.

(5) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health

services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(6) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(7) "Behavioral health aide" means a counselor, health educator, and advocate who helps address individual and community-based behavioral health needs, including those related to alcohol, drug, and tobacco abuse as well as mental health problems such as grief, depression, suicide, and related issues and is certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l and RCW 43.71B.010 (7) and (8).

(8) "Behavioral health provider" means a person licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(9) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(10) "Child" means a person under the age of eighteen years.

(11) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(12) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(13) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(14) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders, substance use disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(15) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by

federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally or behaviorally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health administrative services organizations.

(16) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(17) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

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

(19) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(20) "Director" means the director of the authority.

(21) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(22) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(6).

(23) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (24) of this section.

(24) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(25) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in the Indian health care improvement act (25 U.S.C. Sec. 1603).

(26) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(27) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

(28) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(29) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(30) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

(31) "Mental health peer-run respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

(32) Mental health "treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

(33) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (11), (40), and (41) of this section.

(34) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(35) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (24) of this section but does not meet the full criteria for evidence-based.

(36) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(37) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(38) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health administrative services organization or managed care organization, as applicable.

(39) "Secretary" means the secretary of the department of health.

(40) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(41) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health administrative services organization or managed care organization, if applicable, to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(42) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

(43) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the

substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(44) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

(45) "Crisis call center hub" means a state-designated center participating in the national suicide prevention lifeline network to respond to statewide or regional 988 calls that meets the requirements of section 102 of this act.

(46) "Crisis stabilization services" means services such as 23-hour crisis stabilization units based on the living room model, crisis stabilization units as provided in RCW 71.05.020, triage facilities as provided in RCW 71.05.020, short-term respite facilities, peer-run respite services, and same-day walk-in behavioral health services, including within the overall crisis system components that operate like hospital emergency departments that accept all walk-ins, and ambulance, fire, and police drop-offs.

(47) "Mobile rapid response crisis team" means a team that provides professional on-site community-based intervention such as outreach, de-escalation, stabilization, resource connection, and follow-up support for individuals who are experiencing a behavioral health crisis, that shall include certified peer counselors as a best practice to the extent practicable based on workforce availability, and that meets standards for response times established by the authority.

(48) "988 crisis hotline" means the universal telephone number within the United States designated for the purpose of the national suicide prevention and mental health crisis hotline system operating through the national suicide prevention lifeline.

Sec. 402. RCW 71.24.025 and 2020 c 256 s 201 and 2020 c 80 s 52 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(3) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

(4) "Authority" means the Washington state health care authority.

(5) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(6) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(7) "Behavioral health aide" means a counselor, health educator, and advocate who helps address individual and community-based behavioral health needs, including those related to alcohol, drug, and tobacco abuse as well as mental health problems such as grief, depression, suicide, and related issues and is certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l and RCW 43.71B.010 (7) and (8).

(8) "Behavioral health provider" means a person licensed under chapter 18.57, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(9) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(10) "Child" means a person under the age of eighteen years.

(11) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(12) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(13) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(14) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with

mental disorders, substance use disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(15) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally or behaviorally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health administrative services organizations.

(16) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(17) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

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

(19) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(20) "Director" means the director of the authority.

(21) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(22) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(6).

(23) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (24) of this section.

(24) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one

outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(25) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in the Indian health care improvement act (25 U.S.C. Sec. 1603).

(26) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(27) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

(28) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(29) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(30) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

(31) "Mental health peer-run respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

(32) Mental health "treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

(33) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (11), (40), and (41) of this section.

(34) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(35) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (24) of this section but does not meet the full criteria for evidence-based.

(36) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(37) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(38) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health administrative services organization or managed care organization, as applicable.

(39) "Secretary" means the secretary of the department of health.

(40) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(41) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health administrative services organization or managed care organization, if applicable, to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(42) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

(43) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(44) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

(45) "Crisis call center hub" means a state-designated center participating in the national suicide prevention lifeline network to respond to statewide or regional 988 calls that meets the requirements of section 102 of this act.

(46) "Crisis stabilization services" means services such as 23-hour crisis stabilization units based on the living room model, crisis stabilization units as provided in RCW 71.05.020, triage facilities as provided in RCW 71.05.020, short-term respite facilities, peer-run respite services, and same-day walk-in behavioral health services, including within the overall crisis system components that operate like hospital emergency departments that accept all walk-ins, and ambulance, fire, and police drop-offs.

(47) "Mobile rapid response crisis team" means a team that provides professional on-site community-based intervention such as outreach, de-escalation, stabilization, resource connection, and follow-up support for individuals who are experiencing a behavioral health crisis, that shall include certified peer counselors as a best practice to the extent practicable based on workforce availability, and that meets standards for response times established by the authority.

(48) "988 crisis hotline" means the universal telephone number within the United States designated for the purpose of the national suicide prevention and mental health crisis hotline system operating through the national suicide prevention lifeline.

Sec. 403. RCW 71.24.649 and 2019 c 324 s 5 are each amended to read as follows:

The secretary shall license or certify mental health peer-run respite centers that meet state minimum standards. In consultation with the authority and the department of social and health services, the secretary must:

(1) Establish requirements for licensed and certified community behavioral health agencies to provide mental health peer-run respite center services and establish physical plant and service requirements to provide voluntary, short-term, noncrisis services that focus on recovery and wellness;

(2) Require licensed and certified agencies to partner with the local crisis system including, but not limited to, evaluation and treatment facilities and designated crisis responders;

(3) Establish staffing requirements, including rules to ensure that facilities are peer-run;

(4) Limit services to a maximum of seven days in a month;

(5) Limit services to individuals who are experiencing psychiatric distress, but do not meet legal criteria for involuntary hospitalization under chapter 71.05 RCW; and

(6) Limit services to persons at least eighteen years of age.

NEW SECTION. Sec. 404. Sections 201 through 206 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 405. Sections 201 through 205 of this act take effect October 1, 2021.

NEW SECTION. Sec. 406. Section 401 of this act expires July 1, 2022.

NEW SECTION. Sec. 407. Section 402 of this act takes effect July 1, 2022.

NEW SECTION. Sec. 408. Section 103 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 24, 2021.

Passed by the Senate April 24, 2021.

Approved by the Governor May 13, 2021.

Filed in Office of Secretary of State May 13, 2021.

CHAPTER 303

[Substitute House Bill 1532]

COURT FILING FEES—JUDICIAL STABILIZATION TRUST ACCOUNT SURCHARGES

AN ACT Relating to court filing fees; amending RCW 3.62.060, 36.18.018, and 36.18.020; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 3.62.060 and 2017 3rd sp.s. c 2 s 1 are each amended to read as follows:

(1) Clerks of the district courts shall collect the following fees for their official services:

(a) In any civil action commenced before or transferred to a district court, the plaintiff shall, at the time of such commencement or transfer, pay to such court a filing fee of forty-three dollars plus any surcharge authorized by RCW 7.75.035. Any party filing a counterclaim, cross-claim, or third-party claim in such action shall pay to the court a filing fee of forty-three dollars plus any surcharge authorized by RCW 7.75.035. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action other than those listed.

(b) For issuing a writ of garnishment or other writ, or for filing an attorney issued writ of garnishment, a fee of twelve dollars.

(c) For filing a supplemental proceeding a fee of twenty dollars.

(d) For demanding a jury in a civil case a fee of one hundred twenty-five dollars to be paid by the person demanding a jury.

(e) For preparing a transcript of a judgment a fee of twenty dollars.

(f) For certifying any document on file or of record in the clerk's office a fee of five dollars.

(g) At the option of the district court:

(i) 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;

(ii) For authenticating or exemplifying an instrument, a fee of two dollars for each additional seal affixed;

(iii) For preparing a copy of an instrument on file or of record in the clerk's office without a seal, a fee of fifty cents per page;

(iv) When copying a document without a seal or file that is in an electronic format, a fee of twenty-five cents per page;

(v) For copies made on a compact disc, an additional fee of twenty dollars for each compact disc.

(h) For preparing the record of a case for appeal to superior court a fee of forty dollars including any costs of tape duplication as governed by the rules of appeal for courts of limited jurisdiction (RALJ).

(i) At the option of the district court, for clerk's services such as processing ex parte orders, performing historical searches, compiling statistical reports, and conducting exceptional record searches, a fee not to exceed twenty dollars per hour or portion of an hour.

(j) For duplication of part or all of the electronic recording of a proceeding ten dollars per tape or other electronic storage medium.

(k) For filing any abstract of judgment or transcript of judgment from a municipal court or municipal department of a district court organized under the laws of this state a fee of forty-three dollars.

(l) At the option of the district court, a service fee of up to three dollars for the first page and one dollar for each additional page for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(2)(a) (~~Until July 1, 2021, in~~) In addition to the fees required to be collected under this section, clerks of the district courts must collect a surcharge of thirty dollars on all fees required to be collected under subsection (1)(a) of this section.

(b) Seventy-five percent of each surcharge collected under this subsection (2) must be remitted to the state treasurer for deposit in the judicial stabilization trust account.

(c) Twenty-five percent of each surcharge collected under this subsection (2) must be retained by the county.

(3) The fees or charges imposed under this section shall be allowed as court costs whenever a judgment for costs is awarded.

Sec. 2. RCW 36.18.018 and 2017 3rd sp.s. c 2 s 2 are each amended to read as follows:

(1) State revenue collected by county clerks under subsection (2) of this section must be transmitted to the appropriate state court. The administrative office of the courts shall retain fees collected under subsection (3) of this section.

(2) For appellate review under RAP 5.1(b), two hundred fifty dollars must be charged.

(3) For all copies and reports produced by the administrative office of the courts as permitted under RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(4) (~~Until July 1, 2021, in~~) In addition to the fee established under subsection (2) of this section, a surcharge of forty dollars is established for

appellate review. The county clerk shall transmit seventy-five percent of this surcharge to the state treasurer for deposit in the judicial stabilization trust account and twenty-five percent must be retained by the county.

Sec. 3. RCW 36.18.020 and 2018 c 269 s 17 are each amended to read as follows:

(1) Revenue collected under this section is subject to division with the state under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070, except as provided in subsection (5) of this section.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) In addition to any other fee required by law, the party filing the first or initial document in any civil action, including, but not limited to an action for restitution, adoption, or change of name, and any party filing a counterclaim, cross-claim, or third-party claim in any such civil action, shall pay, at the time the document is filed, a fee of two hundred dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of forty-five dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The forty-five dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial document on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the document is filed, a fee of two hundred dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of two hundred dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of fifty-three dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of two hundred dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first document therein, a fee of two hundred dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of two hundred dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, an adult defendant in a criminal case shall be liable for a fee of two hundred dollars, except this fee shall not be imposed on a defendant who is indigent as defined in RCW 10.101.010(3) (a) through (c).

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972. However, no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

(4) No fee shall be collected when an abstract of judgment is filed by the county clerk of another county for the purposes of collection of legal financial obligations.

(5)(a) (~~Until July 1, 2021, in~~) In addition to the fees required to be collected under this section, clerks of the superior courts must collect surcharges as provided in this subsection (5) of which seventy-five percent must be remitted to the state treasurer for deposit in the judicial stabilization trust account and twenty-five percent must be retained by the county.

(b) On filing fees required to be collected under subsection (2)(b) of this section, a surcharge of thirty dollars must be collected.

(c) On all filing fees required to be collected under this section, except for fees required under subsection (2)(b), (d), and (h) of this section, a surcharge of forty dollars must be collected.

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 July 1, 2021.

Passed by the House April 5, 2021.

Passed by the Senate April 15, 2021.

Approved by the Governor May 13, 2021.

Filed in Office of Secretary of State May 13, 2021.

CHAPTER 304

[Substitute Senate Bill 5151]

FOSTER CARE AND CHILD CARE LICENSING—VARIOUS PROVISIONS

AN ACT Relating to foster care and child care licensing by the department of children, youth, and families; amending RCW 13.34.030, 43.216.015, 43.216.085, 43.216.087, 43.216.089, 43.216.250, 43.216.255, 43.216.260, 43.216.271, 43.216.280, 43.216.305, 43.216.325, 43.216.340, 43.216.360, 43.216.395, 43.216.515, 43.216.530, 43.216.650, 43.216.660, 43.216.685, 43.216.687, 43.216.689, 43.216.690, 43.216.700, 43.216.300, and 74.15.125; reenacting and amending RCW 43.216.010, 43.216.015, and 43.216.020; adding a new section to chapter 43.216 RCW; creating a new section; providing an effective date; and providing expiration dates.

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

Sec. 1. RCW 13.34.030 and 2020 c 312 s 114 are each amended to read as follows:

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

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" mean:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of children, youth, and families.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary of the department of social and health services to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Educational liaison" means a person who has been appointed by the court to fulfill responsibilities outlined in RCW 13.34.046.

(9) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031. These services may include placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(10) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(11) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad

litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(12) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(13) "Guardianship" means a guardianship pursuant to chapter 13.36 RCW or a limited guardianship of a minor pursuant to RCW 11.130.215 or equivalent laws of another state or a federally recognized Indian tribe.

(14) "Housing assistance" means appropriate referrals by the department or other agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or family reunification service as described in RCW 13.34.025(2).

(15) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(16) "Nonminor dependent" means any individual age eighteen to twenty-one years who is participating in extended foster care services authorized under RCW 74.13.031.

(17) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(18) "Parent" means the biological or adoptive parents of a child, or an individual who has established a parent-child relationship under RCW 26.26A.100, unless the legal rights of that person have been terminated by a judicial proceeding pursuant to this chapter, chapter 26.33 RCW, or the equivalent laws of another state or a federally recognized Indian tribe.

(19) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs

are not remedial services or family reunification services as described in RCW 13.34.025(2).

(20) "Prevention services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child. Prevention services include, but are not limited to, prevention and family services and programs as defined in this section.

(21) "Qualified residential treatment program" means a program that meets the requirements provided in RCW 13.34.420, qualifies for funding under the family first prevention services act under 42 U.S.C. Sec. 672(k), and, if located within Washington state, is licensed as a group care facility under chapter 74.15 RCW ((that also qualifies for funding under the federal family first prevention services act under 42 U.S.C. Sec. 672(k) and meets the requirements provided in RCW 13.34.420)).

(22) "Relative" includes persons related to a child in the following ways:

(a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(b) Stepfather, stepmother, stepbrother, and stepsister;

(c) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(d) Spouses of any persons named in (a), (b), or (c) of this subsection, even after the marriage is terminated;

(e) Relatives, as named in (a), (b), (c), or (d) of this subsection, of any half sibling of the child; or

(f) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(23) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(24) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in RCW 13.38.040.

(25) "Social study" means a written evaluation of matters relevant to the disposition of the case that contains the information required by RCW 13.34.430.

(26) "Supervised independent living" includes, but is not limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. Supervised independent living settings must be approved by the department or the court.

(27) "Voluntary placement agreement" means, for the purposes of extended foster care services, a written voluntary agreement between a nonminor dependent who agrees to submit to the care and authority of the department for the purposes of participating in the extended foster care program.

Sec. 2. RCW 43.216.010 and 2020 c 270 s 11 are each reenacted and amended to read as follows:

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

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides early childhood education and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child care provider who regularly provides early childhood education and early learning services for not more than twelve children in the provider's home in the family living quarters;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning, school readiness, and parental support, and an ability to raise a minimum of five million dollars in contributions;

(e) "Outdoor nature-based child care" means an agency or an agency-offered program that:

(i) Enrolls preschool or school-age children;

(ii) Provides early learning services to the enrolled children in an outdoor natural space approved by the department for not less than four hours per day or fifty percent of the daily program hours, whichever is less; and

(iii) Teaches a nature-based curriculum to enrolled children;

(f) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection, even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools that are engaged primarily in early childhood education with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, and accept only school age children;

(g) Seasonal camps ((of three months' or less duration engaged primarily in recreational or educational activities)). For purposes of this chapter, "seasonal camp" means a program that:

(i) Operates for three months or less within a period of twelve consecutive months;

(ii) Is engaged primarily in recreational or educational activities conducted on a closely supervised basis; and

(iii) Is owned by any person, organization, association, or corporation, or is operated by a federal, state, county, or municipal government;

(h) Facilities providing child care for periods of less than twenty-four hours when a parent or legal guardian of the child remains on the premises of the facility for the purpose of participating in:

(i) Activities other than employment; or

(ii) Employment of up to two hours per day when the facility is operated by a nonprofit entity that also operates a licensed child care program at the same facility in another location or at another facility;

(i) Any entity that provides recreational or educational programming for school age children only and the entity meets all of the following requirements:

(i) The entity utilizes a drop-in model for programming, where children are able to attend during any or all program hours without a formal reservation;

(ii) The entity does not assume responsibility in lieu of the parent, unless for coordinated transportation;

(iii) The entity is a local affiliate of a national nonprofit; and

(iv) The entity is in compliance with all safety and quality standards set by the associated national agency;

(j) A program operated by any unit of local, state, or federal government;

(k) A program located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(l) A program located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(m) A program that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Certificate of parental improvement" means a certificate issued under RCW 74.13.720 to an individual who has a founded finding of physical abuse or negligent treatment or maltreatment, or a court finding that the individual's child was dependent as a result of a finding that the individual abused or neglected their child pursuant to RCW 13.34.030(6)(b).

(5) "Conviction information" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the applicant.

(6) "Department" means the department of children, youth, and families.

(7) "Early achievers" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

(8) "Early childhood education and assistance program contractor" means an organization that provides early childhood education and assistance program services under a signed contract with the department.

(9) "Early childhood education and assistance program provider" means an organization that provides site level, direct, and high quality early childhood education and assistance program services under the direction of an early childhood education and assistance program contractor.

(10) "Early start" means an integrated high quality continuum of early learning programs for children birth-to-five years of age. Components of early start include, but are not limited to, the following:

(a) Home visiting and parent education and support programs;

(b) The early achievers program described in RCW 43.216.085;

(c) Integrated full-day and part-day high quality early learning programs; and

(d) High quality preschool for children whose family income is at or below one hundred ten percent of the federal poverty level.

(11) "Education data center" means the education data center established in RCW 43.41.400, commonly referred to as the education research and data center.

(12) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

(13) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325(1) or assessment of civil monetary penalties pursuant to RCW 43.216.325(3).

(14) "Extended day program" means an early childhood education and assistance program that offers early learning education for at least ten hours per day, a minimum of two thousand hours per year, at least four days per week, and operates year-round.

(15) "Full day program" means an early childhood education and assistance program that offers early learning education for a minimum of one thousand hours per year.

(16) "Inspection report" means a written or digital record or report created by the department that identifies or describes licensing violations or conditions within an agency. An inspection report does not include a child care facility licensing compliance agreement as defined in RCW 43.216.395.

(17) "Low-income child care provider" means a person who administers a child care program that consists of at least eighty percent of children receiving working connections child care subsidy.

~~((17))~~ (18) "Low-income neighborhood" means a district or community where more than twenty percent of households are below the federal poverty level.

~~((18))~~ (19) "Negative action" means a court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability, and competence to care for or have

unsupervised access to children in child care. This may include, but is not limited to:

- (a) A decision issued by an administrative law judge;
- (b) A final determination, decision, or finding made by an agency following an investigation;
- (c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification, or contract in lieu of the adverse action;
- (d) A revocation, denial, or restriction placed on any professional license; or
- (e) A final decision of a disciplinary board.

~~((19))~~ (20) "Nonconviction information" means arrest, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the applicant.

~~((20))~~ (21) "Nonschool age child" means a child who is age six years or younger and who is not enrolled in a public or private school.

~~((21))~~ (22) "Part day program" means an early childhood education and assistance program that offers early learning education for at least two and one-half hours per class session, at least three hundred twenty hours per year, for a minimum of thirty weeks per year.

~~((22))~~ (23) "Private school" means a private school approved by the state under chapter 28A.195 RCW.

~~((23))~~ (24) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

~~((24))~~ (25) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

~~((25))~~ (26) "School age child" means a child who is five years of age through twelve years of age and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

~~((26))~~ (27) "Secretary" means the secretary of the department.

~~((27))~~ (28) "Washington state preschool program" means an education program for children three-to-five years of age who have not yet entered kindergarten, such as the early childhood education and assistance program.

Sec. 3. RCW 43.216.015 and 2020 c 262 s 1 and 2020 c 90 s 9 are each reenacted and amended to read as follows:

(1)(a) The department of children, youth, and families is created as an executive branch agency. The department is vested with all powers and duties transferred to it under chapter 6, Laws of 2017 3rd sp. sess. and such other powers and duties as may be authorized by law. The vision for the department is that Washington state's children and youth grow up safe and healthy—thriving physically, emotionally, and academically, nurtured by family and community.

(b) The department, in partnership with state and local agencies, tribes, and communities, shall protect children and youth from harm and promote healthy development with effective, high quality prevention, intervention, and early education services delivered in an equitable manner. An important role for the department shall be to provide preventative services to help secure and preserve families in crisis. The department shall partner with the federally recognized Indian tribes to develop effective services for youth and families while respecting the sovereignty of those tribes and the government-to-government

relationship. Nothing in chapter 6, Laws of 2017 3rd sp. sess. alters the duties, requirements, and policies of the federal Indian child welfare act, 25 U.S.C. Secs. 1901 through 1963, as amended, or the Indian child welfare act, chapter 13.38 RCW.

(2) Beginning July 1, 2018, the department must develop definitions for, work plans to address, and metrics to measure the outcomes for children, youth, and families served by the department and must work with state agencies to ensure services for children, youth, and families are science-based, outcome-driven, data-informed, and collaborative.

(3)(a) Beginning July 1, 2018, the department must establish short and long-term population level outcome measure goals, including metrics regarding reducing disparities by family income, race, and ethnicity in each outcome.

(b) In addition to transparent, frequent reporting of the outcome measures in (c)(i) through (viii) of this subsection, the department must report to the legislature an examination of engagement, resource utilization, and outcomes for clients receiving department services and youth participating in juvenile court alternative programs funded by the department, no less than annually and beginning September 1, 2020. The data in this report must be disaggregated by race, ethnicity, and geography. This report must identify areas of focus to advance equity that will inform department strategies so that all children, youth, and families are thriving. Metrics detailing progress towards eliminating disparities and disproportionality over time must also be included. The report must also include information on department outcome measures, actions taken, progress toward these goals, and plans for the future year.

(c) The outcome measures must include, but are not limited to:

(i) Improving child development and school readiness through voluntary, high quality early learning opportunities as measured by: (A) Increasing the number and proportion of children kindergarten-ready as measured by the Washington kindergarten inventory of developing skills (WAKids) assessment including mathematics; (B) increasing the proportion of children in early learning programs that have achieved the level 3 or higher early achievers quality standard; and (C) increasing the available supply of licensed child care in ~~((both))~~ child care centers, outdoor nature-based child care, and family homes, including providers not receiving state subsidy;

(ii) Preventing child abuse and neglect;

(iii) Improving child and youth safety, permanency, and well-being as measured by: (A) Reducing the number of children entering out-of-home care; (B) reducing a child's length of stay in out-of-home care; (C) reducing maltreatment of youth while in out-of-home care; (D) licensing more foster homes than there are children in foster care; (E) reducing the number of children that reenter out-of-home care within twelve months; (F) increasing the stability of placements for children in out-of-home care; and (G) developing strategies to demonstrate to foster families that their service and involvement is highly valued by the department, as demonstrated by the development of strategies to consult with foster families regarding future placement of a foster child currently placed with a foster family;

(iv) Improving reconciliation of children and youth with their families as measured by: (A) Increasing family reunification; and (B) increasing the number of youth who are reunified with their family of origin;

(v) In collaboration with county juvenile justice programs, improving adolescent outcomes including reducing multisystem involvement and homelessness; and increasing school graduation rates and successful transitions to adulthood for youth involved in the child welfare and juvenile justice systems;

(vi) Reducing future demand for mental health and substance use disorder treatment for youth involved in the child welfare and juvenile justice systems;

(vii) In collaboration with county juvenile justice programs, reducing criminal justice involvement and recidivism as measured by: (A) An increase in the number of youth who successfully complete the terms of diversion or alternative sentencing options; (B) a decrease in the number of youth who commit subsequent crimes; and (C) eliminating the discharge of youth from institutional settings into homelessness; and

(viii) Eliminating racial and ethnic disproportionality and disparities in system involvement and across child and youth outcomes in collaboration with other state agencies.

(4) Beginning July 1, 2018, the department must:

(a) Lead ongoing collaborative work to minimize or eliminate systemic barriers to effective, integrated services in collaboration with state agencies serving children, youth, and families;

(b) Identify necessary improvements and updates to statutes relevant to their responsibilities and proposing legislative changes to the governor no less than biennially;

(c) Help create a data-focused environment in which there are aligned outcomes and shared accountability for achieving those outcomes, with shared, real-time data that is accessible to authorized persons interacting with the family, child, or youth to identify what is needed and which services would be effective;

(d) Lead the provision of state services to adolescents, focusing on key transition points for youth, including exiting foster care and institutions, and coordinating with the office of homeless youth prevention and protection programs to address the unique needs of homeless youth; and

(e) Create and annually update a list of the rights and responsibilities of foster parents in partnership with foster parent representatives. The list of foster parent rights and responsibilities must be posted on the department's web site, provided to individuals participating in a foster parent orientation before licensure, provided to foster parents in writing at the time of licensure, and provided to foster parents applying for license renewal.

(5) The department is accountable to the public. To ensure transparency, beginning December 30, 2018, agency performance data for the services provided by the department, including outcome data for contracted services, must be available to the public, consistent with confidentiality laws, federal protections, and individual rights to privacy. Publicly available data must include budget and funding decisions, performance-based contracting data, including data for contracted services, and performance data on metrics identified in this section. The board must work with the secretary and director to develop the most effective and cost-efficient ways to make department data available to the public, including making this data readily available on the department's web site.

(6) Except as provided in section 8, chapter 90, Laws of 2020, the department shall ensure that all new and renewed contracts for services are performance-based.

(7) The department must execute all new and renewed contracts for services in accordance with this section and consistent with RCW 74.13B.020. When contracted services are managed through a network administrator or other third party, the department must execute data-sharing agreements with the entities managing the contracts to track provider performance measures. Contracts with network administrators or other third parties must provide the contract administrator the ability to shift resources from one provider to another, to evaluate individual provider performance, to add or delete services in consultation with the department, and to reinvest savings from increased efficiencies into new or improved services in their catchment area. Whenever possible, contractor performance data must be made available to the public, consistent with confidentiality laws and individual rights to privacy.

(8)(a) The board shall begin its work and call the first meeting of the board on or after July 1, 2018. The board shall immediately assume the duties of the legislative children's oversight committee, as provided for in RCW 74.13.570 and assume the full functions of the board as provided for in this section by July 1, 2019. The office of innovation, alignment, and accountability shall provide quarterly updates regarding the implementation of the department to the board between July 1, 2018, and July 1, 2019.

(b) The office of the family and children's ombuds shall establish the board. The board is authorized for the purpose of monitoring and ensuring that the department achieves the stated outcomes of chapter 6, Laws of 2017 3rd sp. sess., and complies with administrative acts, relevant statutes, rules, and policies pertaining to early learning, juvenile rehabilitation, juvenile justice, and children and family services.

(9)(a) The board shall consist of the following members:

(i) Two senators and two representatives from the legislature with one member from each major caucus;

(ii) One nonvoting representative from the governor's office;

(iii) One subject matter expert in early learning;

(iv) One subject matter expert in child welfare;

(v) One subject matter expert in juvenile rehabilitation and justice;

(vi) One subject matter expert in eliminating disparities in child outcomes by family income and race and ethnicity;

(vii) One tribal representative from west of the crest of the Cascade mountains;

(viii) One tribal representative from east of the crest of the Cascade mountains;

(ix) One current or former foster parent representative;

(x) One representative of an organization that advocates for the best interest of the child;

(xi) One parent stakeholder group representative;

(xii) One law enforcement representative;

(xiii) One child welfare caseworker representative;

(xiv) One early childhood learning program implementation practitioner;

(xv) One current or former foster youth under age twenty-five;

(xvi) One individual under age twenty-five with current or previous experience with the juvenile justice system;

(xvii) One physician with experience working with children or youth; and

(xviii) One judicial representative presiding over child welfare court proceedings or other children's matters.

(b) The senate members of the board shall be appointed by the leaders of the two major caucuses of the senate. The house of representatives members of the board shall be appointed by the leaders of the two major caucuses of the house of representatives. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year.

(c) The remaining board members shall be nominated by the governor, subject to the approval of the appointed legislators by majority vote, and serve four-year terms. When nominating and approving members after July 28, 2019, the governor and appointed legislators must ensure that at least five of the board members reside east of the crest of the Cascade mountains.

(10) The board has the following powers, which may be exercised by majority vote of the board:

(a) To receive reports of the office of the family and children's ombuds;

(b) To obtain access to all relevant records in the possession of the office of the family and children's ombuds, except as prohibited by law;

(c) To select its officers and adoption of rules for orderly procedure;

(d) To request investigations by the office of the family and children's ombuds of administrative acts;

(e) To request and receive information, outcome data, documents, materials, and records from the department relating to children and family welfare, juvenile rehabilitation, juvenile justice, and early learning;

(f) To determine whether the department is achieving the performance measures;

(g) If final review is requested by a licensee, to review whether department licensors appropriately and consistently applied agency rules in ~~((child care facility licensing compliance agreements as defined in RCW 43.216.395))~~ inspection reports that do not involve a violation of health and safety standards as defined in RCW 43.216.395 in cases that have already been reviewed by the internal review process described in RCW 43.216.395 with the authority to overturn, change, or uphold such decisions;

(h) To conduct annual reviews of a sample of department contracts for services from a variety of program and service areas to ensure that those contracts are performance-based and to assess the measures included in each contract; and

(i) Upon receipt of records or data from the office of the family and children's ombuds or the department, the board is subject to the same confidentiality restrictions as the office of the family and children's ombuds is under RCW 43.06A.050. The provisions of RCW 43.06A.060 also apply to the board.

(11) The board has general oversight over the performance and policies of the department and shall provide advice and input to the department and the governor.

(12) The board must no less than twice per year convene stakeholder meetings to allow feedback to the board regarding contracting with the department, departmental use of local, state, private, and federal funds, and other matters as relating to carrying out the duties of the department.

(13) The board shall review existing surveys of providers, customers, parent groups, and external services to assess whether the department is effectively delivering services, and shall conduct additional surveys as needed to assess whether the department is effectively delivering services.

(14) The board is subject to the open public meetings act, chapter 42.30 RCW, except to the extent disclosure of records or information is otherwise confidential under state or federal law.

(15) Records or information received by the board is confidential to the extent permitted by state or federal law. This subsection does not create an exception for records covered by RCW 13.50.100.

(16) The board members shall receive no compensation for their service on the board, but shall be reimbursed for travel expenses incurred while conducting business of the board when authorized by the board and within resources allocated for this purpose, except appointed legislators who shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(17) The board shall select, by majority vote, an executive director who shall be the chief administrative officer of the board and shall be responsible for carrying out the policies adopted by the board. The executive director is exempt from the provisions of the state civil service law, chapter 41.06 RCW, and shall serve at the pleasure of the board established in this section.

(18) The board shall maintain a staff not to exceed one full-time equivalent employee. The board-selected executive director of the board is responsible for coordinating staff appointments.

(19) The board shall issue an annual report to the governor and legislature by December 1st of each year with an initial report delivered by December 1, 2019. The report must review the department's progress towards meeting stated performance measures and desired performance outcomes, and must also include a review of the department's strategic plan, policies, and rules.

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

(a) "Board" means the oversight board for children, youth, and families established in subsection (8) of this section.

(b) "Director" means the director of the office of innovation, alignment, and accountability.

(c) "Performance-based contract" means results-oriented contracting that focuses on the quality or outcomes that tie at least a portion of the contractor's payment, contract extensions, or contract renewals to the achievement of specific measurable performance standards and requirements.

Sec. 4. RCW 43.216.015 and 2020 c 262 s 1 are each amended to read as follows:

(1)(a) The department of children, youth, and families is created as an executive branch agency. The department is vested with all powers and duties transferred to it under chapter 6, Laws of 2017 3rd sp. sess. and such other powers and duties as may be authorized by law. The vision for the department is that Washington state's children and youth grow up safe and healthy—thriving physically, emotionally, and academically, nurtured by family and community.

(b) The department, in partnership with state and local agencies, tribes, and communities, shall protect children and youth from harm and promote healthy development with effective, high quality prevention, intervention, and early

education services delivered in an equitable manner. An important role for the department shall be to provide preventative services to help secure and preserve families in crisis. The department shall partner with the federally recognized Indian tribes to develop effective services for youth and families while respecting the sovereignty of those tribes and the government-to-government relationship. Nothing in chapter 6, Laws of 2017 3rd sp. sess. alters the duties, requirements, and policies of the federal Indian child welfare act, 25 U.S.C. Secs. 1901 through 1963, as amended, or the Indian child welfare act, chapter 13.38 RCW.

(2) Beginning July 1, 2018, the department must develop definitions for, work plans to address, and metrics to measure the outcomes for children, youth, and families served by the department and must work with state agencies to ensure services for children, youth, and families are science-based, outcome-driven, data-informed, and collaborative.

(3)(a) Beginning July 1, 2018, the department must establish short and long-term population level outcome measure goals, including metrics regarding reducing disparities by family income, race, and ethnicity in each outcome.

(b) In addition to transparent, frequent reporting of the outcome measures in (c)(i) through (viii) of this subsection, the department must report to the legislature an examination of engagement, resource utilization, and outcomes for clients receiving department services and youth participating in juvenile court alternative programs funded by the department, no less than annually and beginning September 1, 2020. The data in this report must be disaggregated by race, ethnicity, and geography. This report must identify areas of focus to advance equity that will inform department strategies so that all children, youth, and families are thriving. Metrics detailing progress towards eliminating disparities and disproportionality over time must also be included. The report must also include information on department outcome measures, actions taken, progress toward these goals, and plans for the future year.

(c) The outcome measures must include, but are not limited to:

(i) Improving child development and school readiness through voluntary, high quality early learning opportunities as measured by: (A) Increasing the number and proportion of children kindergarten-ready as measured by the Washington kindergarten inventory of developing skills (WAKids) assessment including mathematics; (B) increasing the proportion of children in early learning programs that have achieved the level 3 or higher early achievers quality standard; and (C) increasing the available supply of licensed child care in ~~((both))~~ child care centers, outdoor nature-based child care, and family homes, including providers not receiving state subsidy;

(ii) Preventing child abuse and neglect;

(iii) Improving child and youth safety, permanency, and well-being as measured by: (A) Reducing the number of children entering out-of-home care; (B) reducing a child's length of stay in out-of-home care; (C) reducing maltreatment of youth while in out-of-home care; (D) licensing more foster homes than there are children in foster care; (E) reducing the number of children that reenter out-of-home care within twelve months; (F) increasing the stability of placements for children in out-of-home care; and (G) developing strategies to demonstrate to foster families that their service and involvement is highly valued by the department, as demonstrated by the development of strategies to consult

with foster families regarding future placement of a foster child currently placed with a foster family;

(iv) Improving reconciliation of children and youth with their families as measured by: (A) Increasing family reunification; and (B) increasing the number of youth who are reunified with their family of origin;

(v) In collaboration with county juvenile justice programs, improving adolescent outcomes including reducing multisystem involvement and homelessness; and increasing school graduation rates and successful transitions to adulthood for youth involved in the child welfare and juvenile justice systems;

(vi) Reducing future demand for mental health and substance use disorder treatment for youth involved in the child welfare and juvenile justice systems;

(vii) In collaboration with county juvenile justice programs, reducing criminal justice involvement and recidivism as measured by: (A) An increase in the number of youth who successfully complete the terms of diversion or alternative sentencing options; (B) a decrease in the number of youth who commit subsequent crimes; and (C) eliminating the discharge of youth from institutional settings into homelessness; and

(viii) Eliminating racial and ethnic disproportionality and disparities in system involvement and across child and youth outcomes in collaboration with other state agencies.

(4) Beginning July 1, 2018, the department must:

(a) Lead ongoing collaborative work to minimize or eliminate systemic barriers to effective, integrated services in collaboration with state agencies serving children, youth, and families;

(b) Identify necessary improvements and updates to statutes relevant to their responsibilities and proposing legislative changes to the governor no less than biennially;

(c) Help create a data-focused environment in which there are aligned outcomes and shared accountability for achieving those outcomes, with shared, real-time data that is accessible to authorized persons interacting with the family, child, or youth to identify what is needed and which services would be effective;

(d) Lead the provision of state services to adolescents, focusing on key transition points for youth, including exiting foster care and institutions, and coordinating with the office of homeless youth prevention and protection programs to address the unique needs of homeless youth; and

(e) Create and annually update a list of the rights and responsibilities of foster parents in partnership with foster parent representatives. The list of foster parent rights and responsibilities must be posted on the department's web site, provided to individuals participating in a foster parent orientation before licensure, provided to foster parents in writing at the time of licensure, and provided to foster parents applying for license renewal.

(5) The department is accountable to the public. To ensure transparency, beginning December 30, 2018, agency performance data for the services provided by the department, including outcome data for contracted services, must be available to the public, consistent with confidentiality laws, federal protections, and individual rights to privacy. Publicly available data must include budget and funding decisions, performance-based contracting data, including data for contracted services, and performance data on metrics identified in this section. The board must work with the secretary and director to develop the most

effective and cost-efficient ways to make department data available to the public, including making this data readily available on the department's web site.

(6) The department shall ensure that all new and renewed contracts for services are performance-based.

(7) The department must execute all new and renewed contracts for services in accordance with this section and consistent with RCW 74.13B.020. When contracted services are managed through a network administrator or other third party, the department must execute data-sharing agreements with the entities managing the contracts to track provider performance measures. Contracts with network administrators or other third parties must provide the contract administrator the ability to shift resources from one provider to another, to evaluate individual provider performance, to add or delete services in consultation with the department, and to reinvest savings from increased efficiencies into new or improved services in their catchment area. Whenever possible, contractor performance data must be made available to the public, consistent with confidentiality laws and individual rights to privacy.

(8)(a) The board shall begin its work and call the first meeting of the board on or after July 1, 2018. The board shall immediately assume the duties of the legislative children's oversight committee, as provided for in RCW 74.13.570 and assume the full functions of the board as provided for in this section by July 1, 2019. The office of innovation, alignment, and accountability shall provide quarterly updates regarding the implementation of the department to the board between July 1, 2018, and July 1, 2019.

(b) The office of the family and children's ombuds shall establish the board. The board is authorized for the purpose of monitoring and ensuring that the department achieves the stated outcomes of chapter 6, Laws of 2017 3rd sp. sess., and complies with administrative acts, relevant statutes, rules, and policies pertaining to early learning, juvenile rehabilitation, juvenile justice, and children and family services.

(9)(a) The board shall consist of the following members:

(i) Two senators and two representatives from the legislature with one member from each major caucus;

(ii) One nonvoting representative from the governor's office;

(iii) One subject matter expert in early learning;

(iv) One subject matter expert in child welfare;

(v) One subject matter expert in juvenile rehabilitation and justice;

(vi) One subject matter expert in eliminating disparities in child outcomes by family income and race and ethnicity;

(vii) One tribal representative from west of the crest of the Cascade mountains;

(viii) One tribal representative from east of the crest of the Cascade mountains;

(ix) One current or former foster parent representative;

(x) One representative of an organization that advocates for the best interest of the child;

(xi) One parent stakeholder group representative;

(xii) One law enforcement representative;

(xiii) One child welfare caseworker representative;

(xiv) One early childhood learning program implementation practitioner;

(xv) One current or former foster youth under age twenty-five;

(xvi) One individual under age twenty-five with current or previous experience with the juvenile justice system;

(xvii) One physician with experience working with children or youth; and

(xviii) One judicial representative presiding over child welfare court proceedings or other children's matters.

(b) The senate members of the board shall be appointed by the leaders of the two major caucuses of the senate. The house of representatives members of the board shall be appointed by the leaders of the two major caucuses of the house of representatives. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year.

(c) The remaining board members shall be nominated by the governor, subject to the approval of the appointed legislators by majority vote, and serve four-year terms. When nominating and approving members after July 28, 2019, the governor and appointed legislators must ensure that at least five of the board members reside east of the crest of the Cascade mountains.

(10) The board has the following powers, which may be exercised by majority vote of the board:

(a) To receive reports of the office of the family and children's ombuds;

(b) To obtain access to all relevant records in the possession of the office of the family and children's ombuds, except as prohibited by law;

(c) To select its officers and adoption of rules for orderly procedure;

(d) To request investigations by the office of the family and children's ombuds of administrative acts;

(e) To request and receive information, outcome data, documents, materials, and records from the department relating to children and family welfare, juvenile rehabilitation, juvenile justice, and early learning;

(f) To determine whether the department is achieving the performance measures;

(g) If final review is requested by a licensee, to review whether department licensors appropriately and consistently applied agency rules in ~~((child care facility licensing compliance agreements as defined in RCW 43.216.395))~~ inspection reports that do not involve a violation of health and safety standards as defined in RCW 43.216.395 in cases that have already been reviewed by the internal review process described in RCW 43.216.395 with the authority to overturn, change, or uphold such decisions;

(h) To conduct annual reviews of a sample of department contracts for services from a variety of program and service areas to ensure that those contracts are performance-based and to assess the measures included in each contract; and

(i) Upon receipt of records or data from the office of the family and children's ombuds or the department, the board is subject to the same confidentiality restrictions as the office of the family and children's ombuds is under RCW 43.06A.050. The provisions of RCW 43.06A.060 also apply to the board.

(11) The board has general oversight over the performance and policies of the department and shall provide advice and input to the department and the governor.

(12) The board must no less than twice per year convene stakeholder meetings to allow feedback to the board regarding contracting with the department, departmental use of local, state, private, and federal funds, and other matters as relating to carrying out the duties of the department.

(13) The board shall review existing surveys of providers, customers, parent groups, and external services to assess whether the department is effectively delivering services, and shall conduct additional surveys as needed to assess whether the department is effectively delivering services.

(14) The board is subject to the open public meetings act, chapter 42.30 RCW, except to the extent disclosure of records or information is otherwise confidential under state or federal law.

(15) Records or information received by the board is confidential to the extent permitted by state or federal law. This subsection does not create an exception for records covered by RCW 13.50.100.

(16) The board members shall receive no compensation for their service on the board, but shall be reimbursed for travel expenses incurred while conducting business of the board when authorized by the board and within resources allocated for this purpose, except appointed legislators who shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(17) The board shall select, by majority vote, an executive director who shall be the chief administrative officer of the board and shall be responsible for carrying out the policies adopted by the board. The executive director is exempt from the provisions of the state civil service law, chapter 41.06 RCW, and shall serve at the pleasure of the board established in this section.

(18) The board shall maintain a staff not to exceed one full-time equivalent employee. The board-selected executive director of the board is responsible for coordinating staff appointments.

(19) The board shall issue an annual report to the governor and legislature by December 1st of each year with an initial report delivered by December 1, 2019. The report must review the department's progress towards meeting stated performance measures and desired performance outcomes, and must also include a review of the department's strategic plan, policies, and rules.

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

(a) "Board" means the oversight board for children, youth, and families established in subsection (8) of this section.

(b) "Director" means the director of the office of innovation, alignment, and accountability.

(c) "Performance-based contract" means results-oriented contracting that focuses on the quality or outcomes that tie at least a portion of the contractor's payment, contract extensions, or contract renewals to the achievement of specific measurable performance standards and requirements.

Sec. 5. RCW 43.216.020 and 2020 c 262 s 5 and 2020 c 90 s 4 are each reenacted and amended to read as follows:

(1) The department shall implement state early learning policy and coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide such care;

(f) To apply data already collected comparing the following factors and make recommendations to the legislature in a time frame which corresponds to the child care and development fund federal reporting requirements, regarding working connections subsidy and state-funded preschool rates and compensation models that would attract and retain high quality early learning professionals:

(i) State-funded early learning subsidy rates and market rates of licensed early learning homes (~~(and)~~), centers, and outdoor nature-based child care;

(ii) Compensation of early learning educators in licensed centers (~~(and)~~), homes, and outdoor nature-based child care, and early learning teachers at state higher education institutions;

(iii) State-funded preschool program compensation rates and Washington state head start program compensation rates; and

(iv) State-funded preschool program compensation to compensation in similar comprehensive programs in other states;

(g) To administer the early support for infants and toddlers program in RCW 43.216.580, serve as the state lead agency for Part C of the federal individuals with disabilities education act (IDEA), and develop and adopt rules that establish minimum requirements for the services offered through Part C programs, including allowable allocations and expenditures for transition into Part B of the federal individuals with disabilities education act (IDEA);

(h) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(i) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(j) To work cooperatively and in coordination with the early learning council;

(k) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs;

(l) To develop and adopt rules for administration of the program of early learning established in RCW 43.216.555;

(m) To develop a comprehensive birth-to-three plan to provide education and support through a continuum of options including, but not limited to, services such as: Home visiting; quality incentives for infant and toddler child

care subsidies; quality improvements for family home and center-based child care programs serving infants and toddlers; professional development; early literacy programs; and informal supports for family, friend, and neighbor caregivers; and

(n) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information and provider comments through the internet and other means.

(2) When additional funds are appropriated for the specific purpose of home visiting and parent and caregiver support, the department must reserve at least eighty percent for home visiting services to be deposited into the home visiting services account and up to twenty percent of the new funds for other parent or caregiver support.

(3) Home visiting services must include programs that serve families involved in the child welfare system.

(4) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children, and that recognizes and honors cultural and linguistic diversity. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

Sec. 6. RCW 43.216.085 and 2019 c 369 s 2 are each amended to read as follows:

(1) The department, in collaboration with tribal governments and community and statewide partners, shall implement a quality rating and improvement system, called the early achievers program. The early achievers program provides a foundation of quality for the early care and education system. The early achievers program is applicable to licensed or certified child care centers (~~(and homes)~~), family home child care, outdoor nature-based child care, and early learning programs such as working connections child care and early childhood education and assistance programs.

(2) The objectives of the early achievers program are to:

(a) Improve short-term and long-term educational outcomes for children as measured by assessments including, but not limited to, the Washington kindergarten inventory of developing skills in RCW 28A.655.080;

(b) Give parents clear and easily accessible information about the quality of child care and early education programs;

(c) Support improvement in early learning and child care programs throughout the state;

(d) Increase the readiness of children for school;

(e) Close the disparities in access to quality care;

(f) Provide professional development and coaching opportunities to early child care and education providers; and

(g) Establish a common set of expectations and standards that define, measure, and improve the quality of early learning and child care settings.

(3)(a) Licensed or certified child care centers (~~(and homes)~~), family home child care, and outdoor nature-based child care, serving nonschool-age children and receiving state subsidy payments, must participate in the early achievers program by the required deadlines established in RCW 43.216.135.

(b) Approved early childhood education and assistance program providers receiving state-funded support must participate in the early achievers program by the required deadlines established in RCW 43.216.515.

(c) Participation in the early achievers program is voluntary for:

(i) Licensed or certified child care centers (~~and homes~~), family home child care, and outdoor nature-based child care, not receiving state subsidy payments; and

(ii) Early learning programs not receiving state funds.

(d) School-age child care providers are exempt from participating in the early achievers program. By July 1, 2017, the department and the office of the superintendent of public instruction shall jointly design a plan to incorporate school-age child care providers into the early achievers program or other appropriate quality improvement system. To test implementation of the early achievers system for school-age child care providers the department and the office of the superintendent of public instruction shall implement a pilot program.

(4)(a) There are five primary levels in the early achievers program.

(b) In addition to the primary levels, the department must establish an intermediate level that is between level 3 and level 4 and serves to assist participants in transitioning to level 4.

(c) Participants are expected to actively engage and continually advance within the program.

(5) The department has the authority to determine the rating cycle for the early achievers program. The department shall streamline and eliminate duplication between early achievers standards and state child care rules in order to reduce costs associated with the early achievers rating cycle and child care licensing.

(a) Early achievers program participants may request to be rated at any time after the completion of all level 2 activities.

(b) The department shall provide an early achievers program participant an update on the participant's progress toward completing level 2 activities after the participant has been enrolled in the early achievers program for fifteen months.

(c) The first rating is free for early achievers program participants.

(d) Each subsequent rating within the established rating cycle is free for early achievers program participants.

(6)(a) Early achievers program participants may request to be rerated outside the established rating cycle. A rerating shall reset the rating cycle timeline for participants.

(b) The department may charge a fee for optional rerating requests made by program participants that are outside the established rating cycle.

(c) Fees charged are based on, but may not exceed, the cost to the department for activities associated with the early achievers program.

(7)(a) The department must create a single source of information for parents and caregivers to access details on a provider's early achievers program rating level, licensing history, and other indicators of quality and safety that will help parents and caregivers make informed choices. The licensing history that the department must provide for parents and caregivers pursuant to this subsection shall only include license suspension, surrender, revocation, denial, stayed

suspension, or reinstatement. No unfounded child abuse or neglect reports may be provided to parents and caregivers pursuant to this subsection.

(b) The department shall publish to the department's web site, or offer a link on its web site to, the following information:

(i) Early achievers program rating levels 1 through 5 for all child care programs that receive state subsidy, early childhood education and assistance programs, and federal head start programs in Washington; and

(ii) New early achievers program ratings within thirty days after a program becomes licensed or certified, or receives a rating.

(c) The early achievers program rating levels shall be published in a manner that is easily accessible to parents and caregivers and takes into account the linguistic needs of parents and caregivers.

(d) The department must publish early achievers program rating levels for child care programs that do not receive state subsidy but have voluntarily joined the early achievers program.

(e) Early achievers program participants who have published rating levels on the department's web site or on a link on the department's web site may include a brief description of their program, contingent upon the review and approval by the department, as determined by established marketing standards.

(8)(a) The department shall create a professional development pathway for early achievers program participants to obtain a high school diploma or equivalency or higher education credential in early childhood education, early childhood studies, child development, or an academic field related to early care and education.

(b) The professional development pathway must include opportunities for scholarships and grants to assist early achievers program participants with the costs associated with obtaining an educational degree.

(c) The department shall address cultural and linguistic diversity when developing the professional development pathway.

(9) The early achievers quality improvement awards shall be reserved for participants offering programs to an enrollment population consisting of at least five percent of children receiving a state subsidy.

(10) In collaboration with tribal governments, community and statewide partners, and the early achievers review subcommittee created in RCW 43.216.075, the department shall develop a protocol for granting early achievers program participants an extension in meeting rating level requirement timelines outlined for the working connections child care program and the early childhood education and assistance program.

(a) The department may grant extensions only under exceptional circumstances, such as when early achievers program participants experience an unexpected life circumstance.

(b) Extensions shall not exceed six months, and early achievers program participants are only eligible for one extension in meeting rating level requirement timelines.

(c) Extensions may only be granted to early achievers program participants who have demonstrated engagement in the early achievers program.

(11)(a) The department shall accept national accreditation that meets the requirements of this subsection (11) as a qualification for the early achievers program ratings.

(b) Each national accreditation agency will be allowed to submit its most current standards of accreditation to establish potential credit earned in the early achievers program. The department shall grant credit to accreditation bodies that can demonstrate that their standards meet or exceed the current early achievers program standards. By December 1, 2019, and subject to the availability of amounts appropriated for this specific purpose, the department must submit a detailed plan to the governor and the legislature to implement a robust cross-accreditation process with multiple pathways that allows a provider to earn equivalent early achievers credit resulting from accreditation by high quality national organizations.

(c) Licensed child care centers (~~and~~), child care home providers, and outdoor nature-based child care must meet national accreditation standards approved by the department for the early achievers program in order to be granted credit for the early achievers program standards. Eligibility for the early achievers program is not subject to bargaining, mediation, or interest arbitration under RCW 41.56.028, consistent with the legislative reservation of rights under RCW 41.56.028(4)(d).

(12) The department shall explore the use of alternative quality assessment tools that meet the culturally specific needs of the federally recognized tribes in the state of Washington.

(13) A child care or early learning program that is operated by a federally recognized tribe and receives state funds shall participate in the early achievers program. The tribe may choose to participate through an interlocal agreement between the tribe and the department. The interlocal agreement must reflect the government-to-government relationship between the state and the tribe, including recognition of tribal sovereignty. The interlocal agreement must provide that:

(a) Tribal child care facilities and early learning programs may volunteer, but are not required, to be licensed by the department;

(b) Tribal child care facilities and early learning programs are not required to have their early achievers program rating level published to the department's web site or through a link on the department's web site; and

(c) Tribal child care facilities and early learning programs must provide notification to parents or guardians who apply for or have been admitted into their program that early achievers program rating level information is available and provide the parents or guardians with the program's early achievers program rating level upon request.

(14) The department shall consult with the early achievers review subcommittee on all substantial policy changes to the early achievers program.

(15) Nothing in this section changes the department's responsibility to collectively bargain over mandatory subjects or limits the legislature's authority to make programmatic modifications to licensed child care and early learning programs under RCW 41.56.028(4)(d).

Sec. 7. RCW 43.216.087 and 2019 c 369 s 5 are each amended to read as follows:

(1)(a) The department shall, in collaboration with tribal governments and community and statewide partners, implement a protocol to maximize and encourage participation in the early achievers program for culturally diverse and low-income center (~~and~~), family home, and outdoor nature-based child care

providers. Amounts appropriated for the encouragement of culturally diverse and low-income center ~~((and)),~~ family home, and outdoor nature-based child care provider participation shall be appropriated separately from the other funds appropriated for the department, are the only funds that may be used for the protocol, and may not be used for any other purposes. Funds appropriated for the protocol shall be considered an ongoing program for purposes of future departmental budget requests.

(b) The department shall prioritize the resources authorized in this section to assist providers in the early achievers program to help them reach a rating of level 3 or higher wherever access to subsidized care is at risk.

(2) The protocol should address barriers to early achievers program participation and include at a minimum the following:

(a) The creation of a substitute pool;

(b) The development of needs-based grants for providers in the early achievers program who demonstrate a need for assistance to improve program quality. Needs-based grants may be used for environmental improvements of early learning facilities; purchasing curriculum development, instructional materials, supplies, and equipment; and focused infant-toddler improvements. Priority for the needs-based grants shall be given to culturally diverse and low-income providers;

(c) The development of materials and assessments in a timely manner, and to the extent feasible, in the provider and family home languages; and

(d) The development of flexibility in technical assistance and coaching structures to provide differentiated types and amounts of support to providers based on individual need and cultural context.

Sec. 8. RCW 43.216.089 and 2020 c 262 s 3 are each amended to read as follows:

(1) By December 15, 2020, the department, in consultation with the statewide child care resource and referral network, and the early achievers review subcommittee of the early learning advisory council, shall submit, in compliance with RCW 43.01.036, a final report to the governor and the legislature regarding providers' progress in the early achievers program. The report must include the following elements:

(a) The number, and relative percentage, of family child care, outdoor nature-based child care, and center providers who have enrolled in the early achievers program and who have:

(i) Completed the level 2 activities;

(ii) Completed rating readiness consultation and are waiting to be rated;

(iii) Achieved the required rating level to remain eligible for state-funded support under the early childhood education and assistance program or a subsidy under the working connections child care subsidy program;

(iv) Not achieved the required rating level initially but qualified for and are working through intensive targeted support in preparation for a partial rerate outside the standard rating cycle;

(v) Not achieved the required rating level initially and engaged in remedial activities before successfully achieving the required rating level;

(vi) Not achieved the required rating level after completing remedial activities; or

(vii) Received an extension from the department based on exceptional circumstances pursuant to RCW 43.216.085;

(b) A review of the services available to providers and children from diverse racial, ethnic, and cultural backgrounds;

(c) An examination of the effectiveness of efforts to increase successful participation by providers serving children and families from diverse racial, ethnic, and cultural backgrounds and providers who serve children from low-income households;

(d) A description of the primary obstacles and challenges faced by providers who have not achieved the required rating level to remain eligible to receive:

(i) A subsidy under the working connections child care program; or

(ii) State-funded support under the early childhood education and assistance program;

(e) A summary of the types of exceptional circumstances for which the department has granted an extension pursuant to RCW 43.216.085;

(f) The average amount of time required for providers to achieve local level milestones within each level of the early achievers program;

(g) To the extent data is available, an analysis of the distribution of early achievers program-rated facilities in relation to child and provider demographics, including but not limited to race and ethnicity, home language, and geographical location;

(h) Recommendations for improving access for children from diverse racial, ethnic, and cultural backgrounds to providers rated at a level 3 or higher in the early achievers program;

(i) Recommendations for improving the early achievers program standards;

(j) An analysis of any impact from quality strengthening efforts on the availability and quality of infant and toddler care;

(k) The number of contracted slots that use both early childhood education and assistance program funding and working connections child care program funding;

(l) An analysis of the impact of increased regulations on the cost of child care; and

(m) A description of the early childhood education and assistance program implementation to include the following:

(i) Progress on early childhood education and assistance program implementation as required pursuant to RCW 43.216.515, 43.216.525, and 43.216.555;

(ii) An examination of the regional distribution of new preschool programming by school district;

(iii) An analysis of the impact of preschool expansion on low-income neighborhoods and communities;

(iv) Recommendations to address any identified barriers to access to quality preschool for children living in low-income neighborhoods;

(v) An analysis of any impact of extended day early care and education opportunities directives;

(vi) An examination of any identified barriers for providers to offer extended day early care and education opportunities;

(vii) An analysis of the demand for full-day programming for early childhood education and assistance program providers required under RCW 43.216.515; and

(viii) To the extent data is available, an analysis of the racial, ethnic, and cultural diversity of early childhood education and assistance program providers and participants.

(2) The elements required to be reported under subsection (1)(a) of this section must be reported at the county level, and for those counties with a population of five hundred thousand and higher, the data must be reported at the zip code level.

(3) If, based on information in an annual report submitted in 2018 or later under this section, fifteen percent or more of the licensed or contracted providers who are participating in the early achievers program in a county or in a single zip code have not achieved the rating levels under RCW 43.216.135 and 43.216.515, the department must:

(a) Analyze the reasons providers in the affected counties or zip codes have not attained the required rating levels; and

(b) Develop a plan to mitigate the effect on the children and families served by these providers. The plan must be submitted to the legislature as part of the final report described in subsection (1) of this section along with any recommendations for legislative action to address the needs of the providers and the children and families they serve.

(4)(a) Beginning December 1, 2020, the department, in collaboration with the statewide child care resource and referral network, shall make available on its public web site, in a consumer-friendly format, the following elements:

(i) The number, and relative percentage, of family child care and center child care providers who have enrolled in the early achievers program and who have:

(A) Submitted their request for on-site evaluation and are waiting to be rated; and

(B) Achieved the required rating level to remain eligible for state-funded support under the early childhood education and assistance program or a subsidy under the working connections child care subsidy program;

(ii) The distribution of early childhood education and assistance program programming by school district; and

(iii) Indicators of supply and demand at the local level, as well as identification of regions or areas in which there are insufficient numbers of child care facilities using nationally developed methodology.

(b) The elements required to be made available under (a)(i) of this subsection (4) must be made available at the county level, and for those counties with a population of five hundred thousand and higher, the data must be reported at the zip code level.

(c) To the extent data are available, the elements required to be reported under (a)(ii) and (iii) of this subsection (4) must be updated at a minimum of a quarterly basis on the department's public web site.

(d) If in any individual state fiscal year, based on information reported in (a)(ii) and (iii) of this subsection (4), fifteen percent or more of the licensed or contracted providers who are participating in the early achievers program in a

county or in a single zip code have not achieved the rating levels required under RCW 43.216.135 and 43.216.515, the department must:

(i) Analyze the reasons providers in the affected counties or zip codes have not attained the required rating levels; and

(ii) Develop a plan to mitigate the effect on the children and families served by these providers. The plan must be submitted to the legislature by November 1st of the year following the state fiscal year in question, along with any recommendations for legislative action to address the needs of the providers and the children and families they serve.

(5) Beginning September 15, 2021, and each odd-numbered year thereafter, the department shall submit a report to the governor and the legislature outlining the availability and quality of services available to early learning providers and children from diverse racial, ethnic, and cultural backgrounds and from low-income neighborhoods and communities. The report must include the following elements:

(a) To the extent data is available, an analysis of the racial, ethnic, and linguistic diversity of early childhood education and assistance program providers and participants, and the providers and participants of working connections child care;

(b) A review of the services available to providers and children from diverse racial, ethnic, and cultural backgrounds;

(c) An examination of the effectiveness of efforts to increase and maintain successful participation by providers serving children and families from diverse racial, ethnic, and linguistic backgrounds and providers who serve children from low-income households;

(d) To the extent data is available, the distribution of early achievers program-rated facilities by child and provider demographics, including but not limited to race and ethnicity, home language, and geographical location;

(e) Recommendations for improving and maintaining access for children from diverse racial, ethnic, and cultural backgrounds to providers rated at a level 3 or higher in the early achievers program;

(f) Recommendations to address any identified barriers to access to high-quality preschool for children living in low-income neighborhoods;

(g) An examination of expulsion rates of children from diverse racial, ethnic, and diverse cultural backgrounds and from low-income neighborhoods and communities; and

(h) An analysis of how early learning providers and families from diverse racial, ethnic, and cultural backgrounds and from low-income neighborhoods and communities have influenced or participated in the department's early learning plans and implementation strategies.

(6) Beginning September 15, 2022, and each even-numbered year thereafter, the department shall submit a report to the governor and the legislature on the availability of supports to providers and their effectiveness at improving quality. The report must include the following elements:

(a) An analysis of the effectiveness of recruitment efforts for new and returning high-quality early learning providers and programs;

(b) An analysis of the effectiveness of quality improvement tools and incentives on the retention and quality improvement of early learning professionals;

(c) An analysis of the supply of high-quality subsidized early learning. This analysis must include:

(i) An examination of the trend in supply of early learning providers and workers;

(ii) A description of the primary obstacles and challenges faced by providers who have not achieved the required early achievers rating level to remain eligible to receive a subsidy under the working connections child care program or state-funded support under the early childhood education and assistance program;

(iii) The number, and relative percentage, of family child care and center providers who have enrolled in the early achievers program and who have:

(A) Not achieved the required rating level initially but qualified for and are working through intensive targeted support in preparation for a partial rerate outside the standard rating cycle;

(B) Not achieved the required rating level initially and engaged in remedial activities before successfully achieving the required rating level;

(C) Not achieved the required rating level after completing remedial activities; or

(D) Received an extension from the department based on exceptional circumstances pursuant to RCW 43.216.085; and

(iv) Recommendations for improving retention and reducing barriers to entry for early learning providers;

(d) The average amount of time required for providers to achieve local level milestones within each level of the early achievers program;

(e) A summary of the types of exceptional circumstances for which the department has granted an extension to early achievers rating milestones pursuant to RCW 43.216.085;

(f) An analysis of the availability and quality of infant and toddler care; and

(g) An examination of any identified barriers that discourage providers from offering extended day early care and education opportunities.

(7) The information to be disclosed or shared under this section must not include sensitive personal information of in-home caregivers for vulnerable populations as defined in RCW 42.56.640, and must not include any other information protected from disclosure under state or federal law.

Sec. 9. RCW 43.216.250 and 2018 c 58 s 70 are each amended to read as follows:

It shall be the secretary's duty with regard to licensing under this chapter:

(1) In consultation and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of child care facilities or outdoor locations for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages and other characteristics of the children served, variations in the purposes and services offered or size or structure of the agencies to be licensed, or because of any other factor relevant thereto;

(2)(a) In consultation with the state fire marshal's office, the secretary shall use an interagency process to address health and safety requirements for child care programs that serve school-age children and are operated in buildings that contain public or private schools that safely serve children during times in which school is in session;

(b) Any requirements in (a) of this subsection as they relate to the physical facility, including outdoor playgrounds, do not apply to before-school and after-school programs that serve only school-age children and operate in the same facilities used by public or private schools;

(3) In consultation and with the advice and assistance of parents or guardians, and persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed under this chapter;

(4) In consultation with law enforcement personnel, the secretary shall investigate the conviction record or pending charges of each agency and its staff seeking licensure or relicensure, and other persons having unsupervised access to children in child care;

(5) To satisfy the shared background check requirements provided for in RCW 43.216.270 and 43.20A.710, the department of children, youth, and families and the department of social and health services shall share federal fingerprint-based background check results as permitted under the law. The purpose of this provision is to allow both departments to fulfill their joint background check responsibility of checking any individual who may have unsupervised access to vulnerable adults, children, or juveniles. Neither department may share the federal background check results with any other state agency or person;

(6) To issue, revoke, or deny licenses to agencies pursuant to this chapter. Licenses shall specify the category of child care that an agency is authorized to render and the ages and number of children to be served;

(7) To prescribe the procedures and the form and contents of reports necessary for the administration of this chapter and to require regular reports from each licensee;

(8) To inspect agencies periodically to determine whether or not there is compliance with this chapter and the requirements adopted under this chapter;

(9) To review requirements adopted under this chapter at least every two years and to adopt appropriate changes after consultation with affected groups for child care requirements; and

(10) To consult with public and private agencies in order to help them improve their methods and facilities for the care and early learning of children.

Sec. 10. RCW 43.216.255 and 2015 3rd sp.s. c 7 s 3 are each amended to read as follows:

(1) No later than November 1, 2016, the department shall implement a single set of licensing standards for child care and the early childhood education and assistance program. The department shall produce the single set of licensing standards within the department's available appropriations. The new licensing standards must:

(a) Provide minimum (~~health and safety standards~~) licensing requirements for child care and preschool programs;

(b) Rely on the standards established in the early achievers program to address quality issues in participating early childhood programs;

(c) Take into account the separate needs of family care providers, outdoor nature-based child care providers, and child care centers; and

(d) Promote the continued safety of child care settings.

(2) Private schools that operate early learning programs and do not receive state subsidy payments shall be subject ~~((only))~~ to the minimum health and safety standards ~~((in subsection (1)(a) of this section))~~ as defined in RCW 43.216.395(2)(b), the health and safety requirements under chapter 28A.195 RCW, and the requirements necessary to assure a sufficient early childhood education to meet usual requirements needed for transition into elementary school. The state, and any agency thereof, shall not restrict or dictate any specific educational or other programs for early learning programs operated by private schools except for programs that receive state subsidy payments.

Sec. 11. RCW 43.216.260 and 2007 c 415 s 4 are each amended to read as follows:

Applications for licensure shall require, at a minimum, the following information:

(1) The size and suitability of a facility or location for an outdoor nature-based child care program, and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(2) The character, suitability, and competence of an agency and other persons associated with an agency directly responsible for the care of children;

(3) The number of qualified persons required to render the type of care for which an agency seeks a license;

(4) ~~((The))~~ To provide for the comfort, care, and well-being of children, information about the health, safety, cleanliness, and general adequacy of the premises ((to provide for the comfort, care, and well-being of children)), including the real property and premises for an outdoor nature-based child care program;

(5) The provision of necessary care and early learning, including food, supervision, and discipline; physical, mental, and social well-being; and educational and recreational opportunities for those served;

(6) The financial ability of an agency to comply with minimum requirements established under this chapter; and

(7) The maintenance of records pertaining to the care of children.

Sec. 12. RCW 43.216.271 and 2017 3rd sp.s. c 6 s 207 are each amended to read as follows:

Subject to appropriation, the department shall maintain an individual-based or portable background check clearance registry. Any individual seeking a child care license or employment in any child care facility or outdoor nature-based child care program licensed or regulated under current law shall submit a background application on a form prescribed by the department in rule.

Sec. 13. RCW 43.216.280 and 2006 c 265 s 303 are each amended to read as follows:

Licensed child day care centers and outdoor nature-based child care providers shall provide notice of pesticide use to parents or guardians of students and employees pursuant to chapter 17.21 RCW.

Sec. 14. RCW 43.216.305 and 2020 c 343 s 5 are each amended to read as follows:

(1) Each agency shall make application for a license or the continuation of a full license to the department ~~((on forms))~~ using a method prescribed by the department. Upon receipt of such application, the department shall either grant

or deny a license or continuation of a full license within ninety days. A license or continuation shall be granted if the agency meets the minimum requirements set forth in this chapter and the departmental requirements consistent with this chapter, except that an initial license may be issued as provided in RCW 43.216.315. The department shall consider whether an agency is in good standing, as defined in subsection (4)(b) of this section, before granting a continuation of a full license. Full licenses provided for in this chapter shall continue to remain valid so long as the licensee meets the requirements for a nonexpiring license in subsection (2) of this section and may be transferred to a new licensee in the event of a transfer of ownership of a child care operation. The licensee, however, shall advise the secretary of any material change in circumstances which might constitute grounds for reclassification of license as to category. The license issued under this chapter applies only to the licensee and the location stated in the application. For licensed family day care homes having an acceptable history of child care, the license may remain in effect for two weeks after a move.

(2) In order to qualify for a nonexpiring full license, a licensee must meet the following requirements on an annual basis as established from the date of initial licensure:

(a) Submit the annual licensing fee;

(b) Submit a declaration to the department indicating the licensee's intent to continue operating a licensed child care program, or the intent to cease operation on a date certain;

(c) Submit a declaration of compliance with all licensing rules; and

(d) ~~((Submit))~~ For all current employees of the agency and as defined by department rule, submit background check applications into the department's electronic workforce registry on the schedule established by the department.

(3) If a licensee fails to meet the requirements in subsection (2) of this section for continuation of a full license the license expires and the licensee must submit a new application for licensure under this chapter.

(4)(a) Nothing about the nonexpiring license process may interfere with the department's established monitoring practice.

(b) For the purpose of this section, an agency is considered to be in good standing if in the intervening period between monitoring visits the agency does not have any of the following:

(i) Valid complaints;

(ii) A history of noncompliance related to those valid complaints or pending from prior monitoring visits; or

(iii) Other information that when evaluated would result in a finding of noncompliance with this section.

(c) The department shall consider whether an agency is in good standing when determining the most appropriate approach and process for monitoring visits, for the purposes of administrative efficiency while protecting children, consistent with this chapter. If the department determines that an agency is not in good standing, the department may issue a probationary license, as provided in RCW 43.216.320.

Sec. 15. RCW 43.216.325 and 2018 c 58 s 38 are each amended to read as follows:

(1) An agency may be denied a license, or any license issued pursuant to this chapter may be suspended, revoked, modified, or not renewed by the secretary upon proof (a) that the agency has failed or refused to comply with the provisions of this chapter or the requirements adopted pursuant to this chapter; or (b) that the conditions required for the issuance of a license under this chapter have ceased to exist with respect to such licenses. RCW 43.216.327 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(3)(a) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under this chapter or that an agency subject to licensing under this chapter is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home.

(b) Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance.

(c) Civil monetary penalties shall not exceed one hundred fifty dollars per violation for a family day care home and two hundred fifty dollars per violation for child day care centers or outdoor nature-based child care programs. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty.

(d) The department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if the agency comes into compliance during this period.

(e) The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. RCW 43.216.335 governs notice of a civil monetary penalty and provides the right to an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

(4)(a) In addition to or in lieu of an enforcement action being taken, the department may place a child day care center, outdoor nature-based child care provider, or family day care provider on nonreferral status if the center or provider has failed or refused to comply with this chapter or rules adopted under this chapter or an enforcement action has been taken. The nonreferral status may continue until the department determines that: (i) No enforcement action is appropriate; or (ii) a corrective action plan has been successfully concluded.

(b) Whenever a child day care center, outdoor nature-based child care provider, or family day care provider is placed on nonreferral status, the department shall provide written notification to the child day care center, outdoor nature-based child care provider, or family day care provider.

(5) The department shall notify appropriate public and private child care resource and referral agencies of the department's decision to: (a) Take an

enforcement action against a child day care center, outdoor nature-based child care provider, or family day care provider; or (b) place or remove a child day care center, outdoor nature-based child care provider, or family day care provider on nonreferral status.

Sec. 16. RCW 43.216.340 and 2014 c 9 s 1 are each amended to read as follows:

(1) Before requiring any alterations to a child care facility due to inconsistencies with requirements in chapter 19.27 RCW, the department shall:

(a) Consult with the city or county enforcement official; and

(b) Receive written verification from the city or county enforcement official that the alteration is required.

(2) The department's consultation with the city or county enforcement official is limited to licensed child care space.

(3) Unless there is imminent danger to children or staff, the department may not modify, suspend, or revoke a child care license or business activities while the department is waiting to:

(a) Consult with the city or county enforcement official under subsection (1)(a) of this section; or

(b) Receive written verification from the city or county enforcement official that the alteration is required under subsection (1)(b) of this section.

(4) For the purposes of this section, "child care facility" means a family day care home, school-age care, outdoor nature-based child care, and child day care center.

Sec. 17. RCW 43.216.360 and 2011 c 296 s 3 are each amended to read as follows:

When the department suspects that an agency is providing child care services without a license, it shall send notice to that agency within ten days. The notice shall include, but not be limited to, the following information:

(1) That a license is required and the reasons why;

(2) That the agency is suspected of providing child care without a license;

(3) That the agency must immediately stop providing child care until the agency becomes licensed;

(4) That the department can issue a penalty of one hundred fifty dollars per day for each day a family day care home provided care without being licensed and two hundred fifty dollars for each day a child day care center or outdoor nature-based child care provider provided care without being licensed;

(5) That if the agency does not initiate the licensing process within thirty days of the date of the notice, the department will post on its web site that the agency is providing child care without a license.

Sec. 18. RCW 43.216.395 and 2017 3rd sp.s. c 6 s 114 are each amended to read as follows:

(1) The department shall develop an internal review process to determine whether department licensors have appropriately and consistently applied agency rules in ~~((child care facility licensing compliance agreements))~~ inspection reports that do not involve a violation of health and safety standards. Adverse licensing decisions including license denial, suspension, revocation, modification, or nonrenewal pursuant to RCW 43.216.325 or imposition of civil fines pursuant to RCW 43.216.335 are not subject to the internal review process

in this section, but may be appealed using the administrative procedure act, chapter 34.05 RCW.

(2) The definitions in this subsection apply throughout this section.

(a) "Child care facility licensing compliance agreement" means an agreement issued by the department in lieu of the department taking enforcement action against a child care provider that contains: (i) A description of the violation and the rule or law that was violated; (ii) a statement from the licensee regarding the proposed plan to comply with the rule or law; (iii) the date the violation must be corrected; (iv) information regarding other licensing action that may be imposed if compliance does not occur by the required date; and (v) the signature of the licensor and licensee or the licensee's delegate.

(b) "Health and safety standards" means rules or requirements developed by the department to protect the health and safety of children against ~~((substantial))~~ risk of bodily, mental, or psychological injury, harm, illness, or death.

(3) The internal review process shall be conducted by the following six individuals:

(a) Three department employees who may include child care licensors; and

(b) Three child care providers selected by the department from names submitted by the oversight board for children, youth, and families established in RCW 43.216.015.

(4) The internal review process established in this section may overturn, change, or uphold a department licensing decision by majority vote. In the event that the six individuals conducting the internal review process are equally divided, the secretary or the secretary's designee shall make the decision of the internal review process. The internal review process must provide the parties with a written decision of the outcome after completion of the internal review process. A licensee must request a review under the internal review process within ten days of the development of ~~((a child care facility licensing compliance agreement))~~ an inspection report and the internal review process must be completed within ~~((thirty))~~ sixty days after the request from the licensee to initiate the internal review process is received.

(5) A licensee may request a final review by the oversight board for children, youth, and families after completing the internal review process established in this section by giving notice to the department and the oversight board for children, youth, and families within ten days of receiving the written decision produced by the internal review process.

~~((6) The department shall not develop a child care facility licensing compliance agreement with a child care provider for first-time violations of rules that do not relate to health and safety standards and that can be corrected on the same day that the violation is identified. The department shall develop a procedure for providing a warning and offering technical assistance to providers in response to these first-time violations.))~~

Sec. 19. RCW 43.216.515 and 2020 c 321 s 1 are each amended to read as follows:

(1) Approved early childhood education and assistance programs shall receive state-funded support through the department. Public or private organizations including, but not limited to, school districts, educational service districts, community and technical colleges, local governments, or nonprofit

organizations, are eligible to participate as providers of the state early childhood education and assistance program.

(2) Funds obtained by providers through voluntary grants or contributions from individuals, agencies, corporations, or organizations may be used to expand or enhance preschool programs so long as program standards established by the department are maintained.

(3) Persons applying to conduct the early childhood education and assistance program shall identify targeted groups and the number of children to be served, program components, the qualifications of instructional and special staff, the source and amount of grants or contributions from sources other than state funds, facilities and equipment support, and transportation and personal care arrangements.

(4) A new early childhood education and assistance program provider must complete the requirements in this subsection to be eligible to receive state-funded support under the early childhood education and assistance program:

(a) Enroll in the early achievers program within thirty days of the start date of the early childhood education and assistance program contract;

(b)(i) Except as provided in (b)(ii) of this subsection, rate at a level 4 or 5 in the early achievers program within twenty-four months of enrollment. If an early childhood education and assistance program provider rates below a level 4 within twenty-four months of enrollment, the provider must complete remedial activities with the department, and must rate at or request to be rated at a level 4 or 5 within twelve months of beginning remedial activities.

(ii) Licensed or certified child care centers ((and homes)), family home providers, and outdoor nature-based child care providers that administer an early childhood education and assistance program shall rate at a level 4 or 5 in the early achievers program within twenty-four months of the start date of the early childhood education and assistance program contract. If an early childhood education and assistance program provider rates below a level 4 within twenty-four months, the provider must complete remedial activities with the department, and must rate at or request to be rated at a level 4 or 5 within twelve months of beginning remedial activities.

(5)(a) If an early childhood education and assistance program provider has successfully completed all of the required early achievers program activities and is waiting to be rated by the deadline provided in this section, the provider may continue to participate in the early achievers program as an approved early childhood education and assistance program provider and receive state subsidy pending the successful completion of a level 4 or 5 rating.

(b) To avoid disruption, the department may allow for early childhood education and assistance program providers who have rated below a level 4 after completion of the twelve-month remedial period to continue to provide services until the current school year is finished.

(c)(i) If the early childhood education and assistance program provider described under subsection (4)(b)(i) or (ii) of this section does not rate or request to be rated at a level 4 or 5 following the remedial period, the provider is not eligible to receive state-funded support under the early childhood education and assistance program under this section.

(ii) If the early childhood education and assistance program provider described under subsection (4)(b)(i) or (ii) of this section does not rate at a level

4 or 5 when the rating is released following the remedial period, the provider is not eligible to receive state-funded support under the early childhood education and assistance program under this section.

(6)(a) When an early childhood education and assistance program in good standing changes classroom locations to a comparable or improved space within the same facility, or to a comparable or improved outdoor location for an outdoor nature-based child care, a rerating is not required outside of the regular rerating and renewal cycle.

(b) When an early childhood education and assistance program in good standing moves to a new facility, or to a new outdoor location for an outdoor nature-based child care, the provider must notify the department of the move within six months of changing locations in order to retain their existing rating. The early achievers program must conduct an observational visit to ensure the new classroom space is of comparable or improved environmental quality. If a provider fails to notify the department within six months of a move, the early achievers rating must be changed from the posted rated level to "Participating, Not Yet Rated" and the provider will cease to receive tiered reimbursement incentives until a new rating is completed.

(7) The department shall collect data periodically to determine the demand for full-day programming for early childhood education and assistance program providers. The department shall analyze this demand by geographic region and shall include the findings in the annual report required under RCW 43.216.089.

(8) The department shall develop multiple pathways for licensed or certified child care centers and homes to administer an early childhood education and assistance program. The pathways shall include an accommodation for these providers to rate at a level 4 or 5 in the early achievers program according to the timelines and standards established in subsection (4)(b)(ii) of this section. The department must consider using the intermediate level that is between level 3 and level 4 as described in RCW 43.216.085, incentives, and front-end funding in order to encourage providers to participate in the pathway.

Sec. 20. RCW 43.216.530 and 2015 3rd sp.s. c 7 s 10 are each amended to read as follows:

The department shall review applications from public or private organizations for state funding of early childhood education and assistance programs. The department shall consider local community needs, demonstrated capacity, and the need to support a mixed delivery system of early learning that includes alternative models for delivery including licensed centers, outdoor nature-based child care providers, and licensed family child care providers when reviewing applications.

Sec. 21. RCW 43.216.650 and 2015 c 199 s 1 are each amended to read as follows:

(1) For the purposes of this section, "near fatality" means an act that, as certified by a physician, places the child in serious or critical condition.

(2)(a) The department shall conduct a child fatality review if a child fatality occurs in an early learning program described in RCW (~~43.215.400 through 43.215.450~~) 43.216.500 through 43.216.550 or a licensed child care center, licensed outdoor nature-based child care, or a licensed child care home.

(b) The department shall convene a child fatality review committee and determine the membership of the review committee. The committee shall comprise individuals with appropriate expertise, including but not limited to experts from outside the department with knowledge of early learning licensing requirements and program standards, a law enforcement officer with investigative experience, a representative from a county or state health department, and a child advocate with expertise in child fatalities. The department shall invite one parent or guardian for membership on the child fatality review committee who has had a child die in a child care setting. The department shall ensure that the fatality review team is made up of individuals who had no previous involvement in the case.

(c) The department shall allow the parents or guardians whose child's death is being reviewed to testify before the child fatality review committee.

(d) The primary purpose of the fatality review shall be the development of recommendations to the department and legislature regarding changes in licensing requirements, practice, or policy to prevent fatalities and strengthen safety and health protections for children.

(e) Upon conclusion of a child fatality review required pursuant to this section, the department shall, within one hundred eighty days following the fatality, issue a report on the results of the review, unless an extension has been granted by the governor. Reports must be distributed to the appropriate committees of the legislature, and the department shall create a public web site where all child fatality review reports required under this section must be posted and maintained. A child fatality review report completed pursuant to this section is subject to public disclosure and must be posted on the public web site, except that confidential information may be redacted by the department consistent with the requirements of RCW 13.50.100, 68.50.105, and 74.13.500 through 74.13.525, chapter 42.56 RCW, and other applicable state and federal laws.

(3) The department shall consult with the office of the family and children's ombuds to determine if a review should be conducted in the case of a near child fatality that occurs in an early learning program described in RCW ((43.215.400 through 43.215.450)) 43.216.500 through 43.216.550 or licensed child care center, licensed outdoor nature-based child care, or licensed child care home.

(4) In any review of a child fatality or near fatality, the department and the fatality review team must have access to all records and files regarding the child or that are otherwise relevant to the review and that have been produced or retained by the early education and assistance program provider or licensed child care center, licensed outdoor nature-based child care, or licensed family home provider.

(5) The child fatality review committee shall coordinate with local law enforcement to ensure that the fatality or near fatality review does not interfere with any ongoing or potential criminal investigation.

(6)(a) A child fatality or near fatality review completed pursuant to this section is subject to discovery in a civil or administrative proceeding, but may not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to this section.

(b) A department employee responsible for conducting a child fatality or near fatality review, or member of a child fatality or near fatality review team,

may not be examined in a civil or administrative proceeding regarding the following:

- (i) The work of the child fatality or near fatality review team;
- (ii) The incident under review;
- (iii) The employee's or member's statements, deliberations, thoughts, analyses, or impressions relating to the work of the child fatality or near fatality review team or the incident under review; or
- (iv) Statements, deliberations, thoughts, analyses, or impressions of any other member of the child fatality or near fatality review team, or any person who provided information to the child fatality or near fatality review team, relating to the work of the child fatality or near fatality review team or the incident under review.

(c) Documents prepared by or for a child fatality or near fatality review team are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in a child fatality or near fatality review, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by a child fatality or near fatality review team. A person is not unavailable as a witness merely because the person has been interviewed by or has provided a statement for a child fatality or near fatality review, but if called as a witness, a person may not be examined regarding the person's interactions with the child fatality or near fatality review including, without limitation, whether the person was interviewed during such review, the questions that were asked during such review, and the answers that the person provided during such review. This section may not be construed as restricting a person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(d) The restrictions in this section do not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with a minor's death or near fatality reviewed by a child fatality or near fatality review team.

(7) The department shall develop and implement procedures to carry out the requirements of this section.

(8) Nothing in this section creates a duty for the office of the family and children's ombuds under RCW 43.06A.030 as related to children in the care of an early learning program described in RCW ~~((43.215.400 through 43.215.450))~~ 43.216.500 through 43.216.550, a licensed child care center, licensed outdoor nature-based child care, or a licensed child care home.

Sec. 22. RCW 43.216.660 and 2017 3rd sp.s. c 6 s 212 are each amended to read as follows:

It shall be the policy of the state of Washington to:

(1) Recognize the family as the most important social and economic unit of society and support the central role parents play in child rearing. All parents are encouraged to care for and nurture their children through the traditional methods of parental care at home. The availability of quality, affordable child care is a concern for working parents, the costs of care are often beyond the resources of working parents, and child care facilities are not located conveniently to workplaces and neighborhoods. Parents are encouraged to participate fully in the effort to improve the quality of child care services.

(2) Promote a variety of culturally and developmentally appropriate child care settings and services of the highest possible quality in accordance with the basic principle of continuity of care. These settings shall include, but not be limited to, family day care homes, ~~((mini-centers))~~ outdoor nature-based child care, centers, and schools.

(3) Promote the growth, development and safety of children by working with community groups including providers and parents to establish standards for quality service, training of child care providers, fair and equitable monitoring, and salary levels commensurate with provider responsibilities and support services.

(4) Promote equal access to quality, affordable, socio-economically integrated child care for all children and families.

(5) Facilitate broad community and private sector involvement in the provision of quality child care services to foster economic development and assist industry through the department.

Sec. 23. RCW 43.216.685 and 2013 c 23 s 99 are each amended to read as follows:

(1) The department shall establish and maintain a toll-free telephone number, and an interactive web-based system through which persons may obtain information regarding child day care centers, outdoor nature-based child care providers, and family day care providers. This number shall be available twenty-four hours a day for persons to request information. The department shall respond to recorded messages left at the number within two business days. The number shall be published in reasonably available printed and electronic media. The number shall be easily identifiable as a number through which persons may obtain information regarding child day care centers and family day care providers as set forth in this section.

(2) Through the toll-free telephone line established by this section, the department shall provide information to callers about: (a) Whether a day care provider is licensed; (b) whether a day care provider's license is current; (c) the general nature of any enforcement against the providers; (d) how to report suspected or observed noncompliance with licensing requirements; (e) how to report alleged abuse or neglect in a day care; (f) how to report health, safety, and welfare concerns in a day care; (g) how to receive follow-up assistance, including information on the office of the family and children's ombuds; and (h) how to receive referral information on other agencies or entities that may be of further assistance to the caller.

(3) ~~((Beginning in January 2006, the))~~ The department shall print the toll-free number established by this section on the face of new licenses issued to child day care centers, outdoor nature-based child care providers, and family day care providers.

(4) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW.

Sec. 24. RCW 43.216.687 and 2007 c 415 s 6 are each amended to read as follows:

(1) Every child day care center, outdoor nature-based child care provider, and family day care provider shall prominently post the following items, clearly visible to parents and staff:

(a) The license issued under this chapter;

(b) The department's toll-free telephone number established by RCW ~~((43.215.520))~~ 43.216.685;

(c) The notice of any pending enforcement action. The notice must be posted immediately upon receipt. The notice must be posted for at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer;

(d) A notice that inspection reports and any notices of enforcement actions for the previous three years are available from the licensee and the department; and

(e) Any other information required by the department.

(2) The department shall disclose the receipt, general nature, and resolution or current status of all complaints on record with the department after July 24, 2005, against a child day care center or family day care provider that result in an enforcement action. Information may be posted:

(a) On a web site; or

(b) In a physical location that is easily accessed by parents and potential employers.

(3) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW.

Sec. 25. RCW 43.216.689 and 2007 c 415 s 7 are each amended to read as follows:

(1) Every child day care center, outdoor nature-based child care provider, and family day care provider shall have readily available for review by the department, parents, and the public a copy of each inspection report and notice of enforcement action received by the center or provider from the department for the past three years. This subsection only applies to reports and notices received on or after July 24, 2005.

(2) The department shall make available to the public during business hours all inspection reports and notices of enforcement actions involving child day care centers, outdoor nature-based child care providers, and family day care providers. The department shall include in the inspection report a statement of the corrective measures taken by the center or provider.

(3) The department may make available on a publicly accessible web site all inspection reports and notices of licensing actions, including the corrective measures required or taken, involving child day care centers, outdoor nature-based child care providers, and family day care providers.

(4) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW.

Sec. 26. RCW 43.216.690 and 2019 c 362 s 3 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, ~~((center))~~ centers and outdoor nature-based child care providers licensed under this chapter may not allow on the premises an employee or volunteer, who has not provided the child day care center or outdoor nature-based child care provider with:

(a) Immunization records indicating that he or she has received the measles, mumps, and rubella vaccine; or

(b) Proof of immunity from measles through documentation of laboratory evidence of antibody titer or a health care provider's attestation of the person's history of measles sufficient to provide immunity against measles.

(2)(a) The child day care center and outdoor nature-based child care provider may allow a person to be employed or volunteer on the premises for up to thirty calendar days if he or she signs a written attestation that he or she has received the measles, mumps, and rubella vaccine or is immune from measles, but requires additional time to obtain and provide the records required in subsection (1)(a) or (b) of this section.

(b) The child day care center and outdoor nature-based child care provider may allow a person to be employed or volunteer on the premises if the person provides the child day care center or outdoor nature-based child care provider with a written certification signed by a health care practitioner, as defined in RCW 28A.210.090, that the measles, mumps, and rubella vaccine is, in the practitioner's judgment, not advisable for the person. This subsection (2)(b) does not apply if it is determined that the measles, mumps, and rubella vaccine is no longer contraindicated.

(3) The child day care center and outdoor nature-based child care provider shall maintain the documents required in subsection (1) or (2) of this section in the person's personnel record maintained by the child day care center.

(4) For purposes of this section, "volunteer" means a nonemployee who provides care and supervision to children at the child day care center or outdoor nature-based child care program.

Sec. 27. RCW 43.216.700 and 2007 c 415 s 10 are each amended to read as follows:

(1) Every licensed child day care center and outdoor nature-based child care provider shall, at the time of licensure or renewal and at any inspection, provide to the department proof that the licensee has day care insurance as defined in RCW 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

(a) Every licensed child day care center and outdoor nature-based child care provider shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day care center or outdoor nature-based child care location, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(b) Liability limits under this subsection shall be the same as set forth in RCW 48.88.050.

(c) The department may take action as provided in RCW ((43.215.300)) 43.216.325 if the licensee fails to maintain in full force and effect the insurance required by this subsection.

(d) This subsection applies to child day care centers and outdoor nature-based child care providers holding licenses, initial licenses, and probationary licenses under this chapter.

(e) A child day care center holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(2)(a) Every licensed family day care provider shall, at the time of licensure or renewal either:

(i) Provide to the department proof that the licensee has day care insurance as defined in RCW 48.88.020, or other applicable insurance; or

(ii) Provide written notice of their insurance status on a standard form developed by the department to parents with a child enrolled in family day care and keep a copy of the notice to each parent on file. Family day care providers may choose to opt out of the requirement to have day care or other applicable insurance but must provide written notice of their insurance status to parents with a child enrolled and shall not be subject to the requirements of (b) or (c) of this subsection.

(b) Any licensed family day care provider that provides to the department proof that the licensee has insurance as provided under (a)(i) of this subsection shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day care home, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(c) Liability limits under (a)(i) of this subsection shall be the same as set forth in RCW 48.88.050.

(d) The department may take action as provided in RCW (~~(43.215.300)~~) 43.216.325 if the licensee fails to comply with the requirements of this subsection.

(e) A family day care provider holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(3) Noncompliance or compliance with the provisions of this section shall not constitute evidence of liability or nonliability in any injury litigation.

NEW SECTION. Sec. 28. A new section is added to chapter 43.216 RCW to read as follows:

(1) The department shall establish a licensed outdoor nature-based child care program.

(2) The department shall adopt rules to implement the outdoor nature-based child care program and may waive or adapt licensing requirements when necessary to allow for the operation of outdoor classrooms.

(3) The department shall apply the early achievers program to the outdoor nature-based child care program to assess quality in outdoor learning environments and may waive or adapt early achievers requirements when necessary to allow for the operation of outdoor classrooms.

(4) A child care or early learning program operated by a federally recognized tribe may participate in the outdoor nature-based child care program through an interlocal agreement between the tribe and the department. The interlocal agreement must reflect the government-to-government relationship between the state and the tribe, including recognition of tribal sovereignty.

(5) Subject to the availability of funds, the department may convene an advisory group of outdoor, nature-based early learning practitioners to inform and support implementation of the outdoor nature-based child care program.

Sec. 29. RCW 43.216.300 and 2018 c 58 s 41 are each amended to read as follows:

~~((1))~~ The secretary ~~((shall))~~ may not charge fees to the licensee for obtaining a child care license. ~~((The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.~~

~~(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.~~

~~(3) The secretary shall establish the fees charged by rule.)~~

Sec. 30. RCW 74.15.125 and 1995 c 302 s 7 are each amended to read as follows:

(1) The department may issue a probationary license to a licensee who has had a license but is temporarily unable to comply with a rule or has been the subject of multiple complaints or concerns about noncompliance if:

(a) The noncompliance does not present an immediate threat to the health and well-being of the children but would be likely to do so if allowed to continue; and

(b) The licensee has a plan approved by the department to correct the area of noncompliance within the probationary period.

(2) A probationary license may be issued for up to six months, and at the discretion of the department it may be extended for an additional six months. The department shall immediately terminate the probationary license, if at any time the noncompliance for which the probationary license was issued presents an immediate threat to the health or well-being of the children.

(3) The department may, at any time, issue a probationary license for due cause that states the conditions of probation.

(4) An existing license is invalidated when a probationary license is issued.

(5) At the expiration of the probationary license, the department shall reinstate the original license for the remainder of its term, issue a new license, or revoke the original license.

(6) A right to an adjudicative proceeding shall not accrue to the licensee whose license has been placed on probationary status unless the licensee does not agree with the placement on probationary status and the department then suspends, revokes, or modifies the license.

(7)(a) The department may issue a child-specific license to a relative, as defined in RCW 13.36.020, or a suitable person, as defined in RCW 13.36.020, who opts to become licensed for placement of a specific child and that child's siblings or relatives in the department's care, custody, and control.

(b) Such individuals must meet all minimum licensing requirements for foster family homes established pursuant to RCW 74.15.030 and are subject to child-specific license criteria, which the department is authorized to establish by rule.

(c) For purposes of federal funding, a child-specific license is considered a full license with all of the rights and responsibilities of a foster family home license, except that at the discretion of the department the licensee may only receive placement of specific children pursuant to (a) of this subsection.

(d) A child-specific license does not confer upon the licensee a right to placement of a particular child, nor does it confer party status in any proceeding under chapter 13.34 RCW.

(e) The department shall seek input from the following stakeholders during the development and adoption of rules necessary to implement this section: Representatives from the kinship care oversight committee, an organization that represents current and former foster youth, an organization that represents child placing agencies, and a statewide advisory group of foster youth and alumni of foster care. The department shall seek tribal input as outlined in the department's government-to-government policy, per RCW 43.376.020.

NEW SECTION, Sec. 31. Section 3 of this act expires December 31, 2021.

NEW SECTION, Sec. 32. Section 4 of this act takes effect December 31, 2021.

*NEW SECTION, Sec. 33. If specific funding for the purposes of section 29 of this act, referencing section 29 of this act by bill or chapter number and section number, is not provided by June 30, 2021, in the omnibus appropriations act, section 29 of this act is null and void.

**Sec. 33 was vetoed. See message at end of chapter.*

NEW SECTION, Sec. 34. Section 29 of this act expires June 30, 2023.

Passed by the Senate April 20, 2021.

Passed by the House April 6, 2021.

Approved by the Governor May 13, 2021, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 33, Substitute Senate Bill No. 5151 entitled:

"AN ACT Relating to foster care and child care licensing by the department of children, youth, and families."

Section 33 is a null and void clause. It provides that if specific funding for the purposes of Section 29, a section related to prohibiting charging licensees for obtaining a child care license, is not provided in the omnibus appropriations act, then Section 29 is null and void. Although the omnibus appropriations act references Section 29 of this bill, it does not provide specific funding for Section 29. Section 33 must be vetoed so that Section 29 can be implemented.

For these reasons I have vetoed Section 33 of Substitute Senate Bill No. 5151.

With the exception of Section 33, Substitute Senate Bill No. 5151 is approved."

CHAPTER 305

[Senate Bill 5225]

DIRECT APPEALS—ADMINISTRATIVE PROCEDURE ACT AND LAND USE PETITION ACT

AN ACT Relating to direct appeals to the court of appeals of cases brought under the administrative procedure act and the land use petition act; amending RCW 34.05.518, 34.05.522, 36.18.018, 34.05.518, and 34.05.522; adding a new section to chapter 36.70C RCW; providing an effective date; providing expiration dates; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70C RCW to read as follows:

(1) The superior court may transfer the judicial review of a land use decision to the court of appeals upon finding that all parties have consented to the transfer to the court of appeals and agreed that the judicial review can occur based upon an existing record. Transfer of cases pursuant to this section does not require the filing of a motion for discretionary review with the court of appeals.

(2) Upon stipulation and consent to transfer, the parties waive the right to seek an award of attorneys' fees and costs under RCW 4.84.370, except as may be awarded following an appeal to the supreme court.

(3) RCW 36.70C.090 does not apply to a matter transferred to the court of appeals pursuant to this section.

(4) This section expires June 30, 2026.

Sec. 2. RCW 34.05.518 and 2010 c 211 s 15 are each amended to read as follows:

(1) The final decision of an administrative agency in an adjudicative proceeding under this chapter may(~~(; except as otherwise provided in chapter 43.21B RCW;)~~) be directly reviewed by the court of appeals (~~((either (a)))~~) upon certification by the superior court pursuant to this section (~~((or (b) if the final decision is from an environmental board as defined in subsection (3) of this section, upon acceptance by the court of appeals after a certificate of appealability has been filed by the environmental board that rendered the final decision))~~).

~~((2) For direct review upon certification by the superior court, an application for direct review must be filed with the superior court within thirty days of the filing of the petition for review in superior court. The superior court may certify a case for direct review only if the judicial review is limited to the record of the agency proceeding and the court finds that:~~

~~(a) Fundamental and urgent issues affecting the future administrative process or the public interest are involved which require a prompt determination;~~

~~(b) Delay in obtaining a final and prompt determination of such issues would be detrimental to any party or the public interest;~~

~~(c) An appeal to the court of appeals would be likely regardless of the determination in superior court; and~~

~~(d) The appellate court's determination in the proceeding would have significant precedential value.~~

~~Procedures for certification shall be established by court rule.~~

~~(3)(a) For the purposes of direct review of final decisions of environmental boards, environmental boards include those boards identified in RCW 43.21B.005 and the growth management hearings board as identified in RCW 36.70A.250.~~

~~(b) An environmental board may issue a certificate of appealability if it finds that delay in obtaining a final and prompt determination of the issues would be detrimental to any party or the public interest and either:~~

~~(i) Fundamental and urgent statewide or regional issues are raised; or~~

~~(ii) The proceeding is likely to have significant precedential value.~~

~~(4) The environmental board shall state in the certificate of appealability which criteria it applied, explain how that criteria was met, and file with the certificate a copy of the final decision.~~

~~(5) For an appellate court to accept direct review of a final decision of an environmental board, it shall consider the same criteria outlined in subsection (3) of this section, except as otherwise provided in chapter 43.21L RCW.~~

~~(6) The procedures for direct review of final decisions of environmental boards include:~~

~~(a) Within thirty days after filing the petition for review with the superior court, a party may file an application for direct review with the superior court and serve the appropriate environmental board and all parties of record. The application shall request the environmental board to file a certificate of appealability.~~

~~(b) If an issue on review is the jurisdiction of the environmental board, the board may file an application for direct review on that issue.~~

~~(c) The environmental board shall have thirty days to grant or deny the request for a certificate of appealability and its decision shall be filed with the superior court and served on all parties of record.~~

~~(d) If a certificate of appealability is issued, the parties shall have fifteen days from the date of service to file a notice of discretionary review in the superior court, and the notice shall include a copy of the certificate of appealability and a copy of the final decision.~~

~~(e) If the appellate court accepts review, the certificate of appealability shall be transmitted to the court of appeals as part of the certified record.~~

~~(f) If a certificate of appealability is denied, review shall be by the superior court. The superior court's decision may be appealed to the court of appeals.)~~
Transfer of cases pursuant to this section does not require the filing of a motion for discretionary review with the court of appeals. The superior court may certify cases for transfer to the court of appeals upon finding that:

(a) All parties have consented to the transfer to the court of appeals and agreed that the judicial review can occur based upon the agency record developed before the administrative body without supplementing the record pursuant to RCW 34.05.562; or

(b) One or more of the parties have not consented to the transfer, but the superior court finds that transfer would serve the interest of justice, would not cause substantial prejudice to any party, including any unrepresented party, and further finds that:

(i) The judicial review can occur based upon the agency record developed before the administrative body without supplementing the record pursuant to RCW 34.05.562; or

(ii) The superior court has completed any necessary supplementation of the record pursuant to RCW 34.05.562, such that only issues of law remain for determination.

(2) If the superior court certifies a final decision of an administrative agency in an adjudicative proceeding, the superior court shall transfer the matter to the court of appeals as a direct appeal.

(3) A party contesting a superior court decision granting or denying certification for direct review may file a motion for discretionary review with the court of appeals.

Sec. 3. RCW 34.05.522 and 1995 c 382 s 6 are each amended to read as follows:

The court of appeals may refuse to accept direct review of a case pursuant to RCW 34.05.518 if it finds that the case does not meet the applicable standard in RCW 34.05.518 (~~((2) or (5))~~). (~~(Rules of Appellate Procedure 2.3 do not apply in this instance.)~~) The refusal to accept such review is not subject to further appellate review, notwithstanding anything in Rule 13.3 of the Rules of Appellate Procedure to the contrary.

Sec. 4. RCW 36.18.018 and 2017 3rd sp.s. c 2 s 2 are each amended to read as follows:

(1) State revenue collected by county clerks under subsection (2) of this section must be transmitted to the appropriate state court. The administrative office of the courts shall retain fees collected under subsection (3) of this section.

(2) For appellate review under RAP 5.1(b), two hundred fifty dollars must be charged, except that no fee may be charged under this section for a case transferred from the superior court to the court of appeals pursuant to RCW 34.05.518 or section 1 of this act.

(3) For all copies and reports produced by the administrative office of the courts as permitted under RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(4) Until July 1, 2021, in addition to the fee established under subsection (2) of this section, a surcharge of forty dollars is established for appellate review. The county clerk shall transmit seventy-five percent of this surcharge to the state treasurer for deposit in the judicial stabilization trust account and twenty-five percent must be retained by the county.

Sec. 5. RCW 34.05.518 and 2010 c 211 s 15 are each amended to read as follows:

(1) The final decision of an administrative agency in an adjudicative proceeding under this chapter may (~~(, except as otherwise provided in chapter 43.21L RCW,)~~) be directly reviewed by the court of appeals either (a) upon certification by the superior court pursuant to this section or (b) if the final decision is from an environmental board as defined in subsection (3) of this section, upon acceptance by the court of appeals after a certificate of appealability has been filed by the environmental board that rendered the final decision.

(2) For direct review upon certification by the superior court, an application for direct review must be filed with the superior court within thirty days of the filing of the petition for review in superior court. The superior court may certify a case for direct review only if the judicial review is limited to the record of the agency proceeding and the court finds that:

(a) Fundamental and urgent issues affecting the future administrative process or the public interest are involved which require a prompt determination;

(b) Delay in obtaining a final and prompt determination of such issues would be detrimental to any party or the public interest;

(c) An appeal to the court of appeals would be likely regardless of the determination in superior court; and

(d) The appellate court's determination in the proceeding would have significant precedential value.

Procedures for certification shall be established by court rule.

(3)(a) For the purposes of direct review of final decisions of environmental boards, environmental boards include those boards identified in RCW 43.21B.005 and the growth management hearings board as identified in RCW 36.70A.250.

(b) An environmental board may issue a certificate of appealability if it finds that delay in obtaining a final and prompt determination of the issues would be detrimental to any party or the public interest and either:

(i) Fundamental and urgent statewide or regional issues are raised; or

(ii) The proceeding is likely to have significant precedential value.

(4) The environmental board shall state in the certificate of appealability which criteria it applied, explain how that criteria was met, and file with the certificate a copy of the final decision.

(5) For an appellate court to accept direct review of a final decision of an environmental board, it shall consider the same criteria outlined in subsection (3) of this section (~~(, except as otherwise provided in chapter 43.21L RCW)~~).

(6) The procedures for direct review of final decisions of environmental boards include:

(a) Within thirty days after filing the petition for review with the superior court, a party may file an application for direct review with the superior court and serve the appropriate environmental board and all parties of record. The application shall request the environmental board to file a certificate of appealability.

(b) If an issue on review is the jurisdiction of the environmental board, the board may file an application for direct review on that issue.

(c) The environmental board shall have thirty days to grant or deny the request for a certificate of appealability and its decision shall be filed with the superior court and served on all parties of record.

(d) If a certificate of appealability is issued, the parties shall have fifteen days from the date of service to file a notice of discretionary review in the superior court, and the notice shall include a copy of the certificate of appealability and a copy of the final decision.

(e) If the appellate court accepts review, the certificate of appealability shall be transmitted to the court of appeals as part of the certified record.

(f) If a certificate of appealability is denied, review shall be by the superior court. The superior court's decision may be appealed to the court of appeals.

Sec. 6. RCW 34.05.522 and 1995 c 382 s 6 are each amended to read as follows:

The court of appeals may refuse to accept direct review of a case pursuant to RCW 34.05.518 if it finds that the case does not meet the applicable standard in RCW 34.05.518 (2) or (5). (~~(Rules of Appellate Procedure 2.3 do not apply in this instance.)~~) The refusal to accept such review is not subject to further appellate review, notwithstanding anything in Rule 13.3 of the Rules of Appellate Procedure to the contrary.

NEW SECTION. Sec. 7. Except for sections 5 and 6 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect 30 days after signed into law.

NEW SECTION. Sec. 8. Sections 2 and 3 of this act expire July 1, 2026.

NEW SECTION. Sec. 9. Sections 5 and 6 of this act take effect July 1, 2026.

Passed by the Senate February 23, 2021.

Passed by the House April 11, 2021.

Approved by the Governor May 13, 2021.

Filed in Office of Secretary of State May 13, 2021.

CHAPTER 306

[Engrossed Substitute Senate Bill 5235]

HOUSING UNIT INVENTORY—REMOVING LIMITS

AN ACT Relating to increasing housing unit inventory by removing arbitrary limits on housing options; amending RCW 36.70A.696, 36.70A.697, and 36.70A.698; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.01 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 local zoning laws can contribute to limiting the housing available for Washingtonians. The legislature finds that reducing these barriers can increase affordable housing options. The legislature finds that accessory dwelling units can be one way to add affordable long-term housing and to provide a needed increase in housing density. However, the legislature finds that research from several cities shows that when accessory dwelling units are built and offered for short-term rental for tourists and business visitors, they may not improve housing affordability. Therefore, it is the intent of the legislature to encourage reducing barriers to accessory dwelling units when local governments have programs to incentivize or assure that they will be utilized for long-term housing. The legislature finds that owner occupancy requirements may provide an appropriate means for local governments to ensure community impacts of accessory dwelling units are mitigated and allow for relaxation of other requirements, when they are an element of a program to reduce short-term rental of accessory dwelling units. The legislature also intends to remove barriers and restrictions on the number of unrelated occupants permitted to live together, which will provide additional affordable housing options.

**Sec. 1 was vetoed. See message at end of chapter.*

Sec. 2. RCW 36.70A.696 and 2020 c 217 s 2 are each amended to read as follows:

The definitions in this section apply throughout RCW 36.70A.697 and 36.70A.698 unless the context clearly requires otherwise.

(1) "Accessory dwelling unit" means a dwelling unit located on the same lot as a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(2) "Attached accessory dwelling unit" means an accessory dwelling unit located within or attached to a single-family housing unit, duplex, triplex, townhome, or other housing unit.

(3) "City" means any city, code city, and town located in a county planning under RCW 36.70A.040.

(4) "County" means any county planning under RCW 36.70A.040.

(5) "Detached accessory dwelling unit" means an accessory dwelling unit that consists partly or entirely of a building that is separate and detached from a single-family housing unit, duplex, triplex, townhome, or other housing unit and is on the same property.

~~((5))~~ (6) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation.

~~((6))~~ (7) "Major transit stop" means:

(a) A stop on a high capacity transportation system funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing actual fixed route service at intervals of at least fifteen minutes for at least five hours during the peak hours of operation on weekdays.

(8) "Owner" means any person who has at least 50 percent ownership in a property on which an accessory dwelling unit is located.

(9) "Short-term rental" means a lodging use, that is not a hotel or motel or bed and breakfast, in which a dwelling unit, or portion thereof, is offered or provided to a guest by a short-term rental operator for a fee for fewer than 30 consecutive nights.

*Sec. 3. RCW 36.70A.697 and 2020 c 217 s 3 are each amended to read as follows:

(1)(a) Cities must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of RCW 36.70A.698(1) to take effect by July 1, 2021.

~~((2))~~ (b) Beginning July 1, 2021, the requirements of RCW 36.70A.698(1):

~~((a))~~ (i) Apply and take effect in any city that has not adopted or amended ordinances, regulations, or other official controls as required under this section; and

~~((b))~~ (ii) Supersede, preempt, and invalidate any local development regulations that conflict with RCW 36.70A.698(1).

(2)(a) Cities and counties must adopt or amend by ordinance, and incorporate into their development regulations, zoning regulations, and other official controls the requirements of RCW 36.70A.698(2) within two years of the next applicable deadline for its comprehensive plan to be reviewed under RCW 36.70A.130 after July 1, 2021.

(b) Beginning two years after the next applicable deadline for the review of a county's or city's comprehensive plan under RCW 36.70A.130 after July 1, 2021, the requirements of RCW 36.70A.698(2) apply and take effect in any city or county that has not adopted or amended ordinances, regulations, or other official controls as required under this section, and preempt any conflicting development regulations.

*Sec. 3 was vetoed. See message at end of chapter.

*Sec. 4. RCW 36.70A.698 and 2020 c 217 s 4 are each amended to read as follows:

~~(1)(a)~~ Except as provided in (~~subsection(s) (2) and (3) of this section~~) ~~(b) and (c) of this subsection~~, through ordinances, development regulations, zoning regulations, and other official controls as required under RCW 36.70A.697(1)(a), cities may not require the provision of off-street parking for accessory dwelling units within one-quarter mile of a major transit stop.

~~((2))~~ ~~(b)~~ A city may require the provision of off-street parking for an accessory dwelling unit located within one-quarter mile of a major transit stop if the city has determined that the accessory dwelling unit is in an area with a lack of access to street parking capacity, physical space impediments, or other reasons supported by evidence that would make on-street parking infeasible for the accessory dwelling unit.

~~((3))~~ ~~(c)~~ A city that has adopted or substantively amended accessory dwelling unit regulations within the four years previous to June 11, 2020, is not subject to the requirements of this (~~section~~) subsection (1).

(2) Through ordinances, development regulations, and other official controls adopted or amended as required under RCW 36.70A.697(2):

(a) Cities and counties may not impose or enforce an owner occupancy requirement on any housing or dwelling unit on a lot containing an accessory dwelling unit, unless an accessory dwelling unit on the lot is being offered or used for short-term rental, except that:

(i) Cities and counties may impose and enforce an owner occupancy requirement for the first year after initial occupation of the unit or primary residence following permitting; and

(ii) Cities and counties may impose an owner occupancy requirement for an additional period if such a requirement is supported by findings of the need for such an increased requirement adopted by the city or county after at least two public hearings are held on the proposal, and any ordinance, development regulations, and other official controls finally adopted directly address feedback from the community. Such an additional period of owner occupancy restrictions must be geographically limited, and may not apply to all of the residential zones within the city or county.

(b) Cities and counties may adopt ordinances, development regulations, and other official controls, including the imposition of fees, impact fees, or taxes, or the waiver of taxes, fees, or specific regulations, to encourage use of accessory dwelling units for long-term housing. Cities and counties may only offer such reduced impact fees, deferral of taxes, or other incentives for the development or construction of accessory dwelling units if such units are subject to effective binding commitments or covenants that the units will not be regularly offered for short-term rental and the city or county has a program to audit compliance with such commitments or covenants.

(c) Cities and counties that impose owner occupancy requirements on lots containing accessory dwelling units must provide for a hardship exemption from any owner occupancy requirements applicable to a housing or dwelling unit on the same lot as an accessory dwelling unit. Such an exemption must allow an owner to offer for rental for periods of 30 days or longer a dwelling unit or housing unit as if a dwelling or housing unit on the property was owner occupied, when the owner no longer occupies the primary residence

due to age, illness, financial hardship due to the death of a spouse, domestic partner, or co-owner of the property, disability status, the deployment, activation, mobilization, or temporary duty, as those terms are defined in RCW 26.09.004, of a service member of the armed forces, or other such reason that would make the owner occupancy requirement an undue hardship on the owner. A city or county shall develop and implement a process for the review of hardship applications. Any city or county that imposes an owner occupancy requirement on lots containing accessory dwelling units and has not provided a hardship exemption from the requirement through ordinances, development regulations, or other official controls as required by this subsection may not impose or enforce an owner occupancy requirement on any lot containing an accessory dwelling unit until such time as the city or county has adopted the required hardship exemption, except that an owner-occupancy requirement pursuant to (a) of this subsection (2) may be imposed and enforced if the owner of the lot offers an accessory dwelling unit for short-term rental within the county or if the owner of the lot owns more than three accessory dwelling units within the county.

**Sec. 4 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 5. A new section is added to chapter 35.21 RCW to read as follows:

Except for occupant limits on group living arrangements regulated under state law or on short-term rentals as defined in RCW 64.37.010 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code or city ordinance, a city or town may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit.

NEW SECTION. Sec. 6. A new section is added to chapter 35A.21 RCW to read as follows:

Except for occupant limits on group living arrangements regulated under state law or on short-term rentals as defined in RCW 64.37.010 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code or city ordinance, a code city may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit.

NEW SECTION. Sec. 7. A new section is added to chapter 36.01 RCW to read as follows:

Except for occupant limits on group living arrangements regulated under state law or on short-term rentals as defined in RCW 64.37.010 and any lawful limits on occupant load per square foot or generally applicable health and safety provisions as established by applicable building code or county ordinance, a county may not regulate or limit the number of unrelated persons that may occupy a household or dwelling unit.

Passed by the Senate April 14, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 13, 2021, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 1, 3, and 4, Engrossed Substitute Senate Bill No. 5235 entitled:

"AN ACT Relating to increasing housing unit inventory by removing arbitrary limits on housing options."

Section 3 allows cities to delay local implementation of statewide requirements around siting of accessory dwelling units until two years after their next required comprehensive plan update. Accessory dwelling units play an important role in creating additional housing options in urban areas and the state is currently facing a housing crisis.

Section 4 limits the ability for local governments to require owner occupancy on lots containing an accessory dwelling unit, but it also creates numerous exceptions to that limitation which are problematic. I am concerned that the language may allow a local government to prevent the siting and development of accessory dwelling units in perpetuity with very little justification.

Section 1 establishes the intent of the bill. Due to the vetoes of Sections 3 and 4, the original statement of intent no longer fully applies to this bill.

For these reasons I have vetoed Sections 1, 3, and 4 of Engrossed Substitute Senate Bill No. 5235.

With the exception of Sections 1, 3, and 4, Engrossed Substitute Senate Bill No. 5235 is approved."

CHAPTER 307

[Senate Bill 5299]

HIGH SCHOOL GRADUATION—USE OF COMPUTER SCIENCE CREDITS

AN ACT Relating to the use of computer science credits for the purpose of graduation requirements; and amending RCW 28A.230.300 and 28A.230.090.

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

Sec. 1. RCW 28A.230.300 and 2019 c 180 s 2 are each amended to read as follows:

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

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

- (a) A course equivalency approval procedure;
- (b) Procedures for awarding competency-based credit for skills learned partially or wholly outside of a course; and
- (c) An approval process for computer science courses taken before attending high school under RCW 28A.230.090 (4) and (5).

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

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

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

(4)(a) For purposes of meeting graduation requirements under RCW 28A.230.090, a student may substitute a computer science course aligned to state computer science learning standards as an alternative to a third year mathematics or third year science course if:

(i) Prior to the substitution, the school counselor provides the student and the student's parent or guardian with written notification of the consequences of the substitution on postsecondary opportunities;

(ii) The student, the student's parent or guardian, and the student's school counselor or principal agree to the substitution; and

(iii) The substitution is aligned with the student's high school and beyond plan.

(b) A substitution permitted under this subsection (4) may only be used once per student.

Sec. 2. RCW 28A.230.090 and 2020 c 307 s 6 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students, except as provided in RCW 28A.230.122 and 28A.655.250 and except those equivalencies established by local high schools or school districts under RCW 28A.230.097. The purpose of a high school diploma is to declare that a student is ready for success in postsecondary education, gainful employment, and citizenship, and is equipped with the skills to be a lifelong learner.

(a) Any course in Washington state history and government used to fulfill high school graduation requirements shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(b) Except as provided otherwise in this subsection, the certificate of academic achievement requirements under RCW 28A.655.061 or the certificate of individual achievement requirements under RCW 28A.155.045 are required for graduation from a public high school but are not the only requirements for graduation. The requirement to earn a certificate of academic achievement to qualify for graduation from a public high school concludes with the graduating class of 2019. The obligation of qualifying students to earn a certificate of individual achievement as a prerequisite for graduation from a public high school concludes with the graduating class of 2021.

(c)(i) Each student must have a high school and beyond plan to guide the student's high school experience and inform course taking that is aligned with the student's goals for education or training and career after high school.

(ii)(A) A high school and beyond plan must be initiated for each student during the seventh or eighth grade. In preparation for initiating that plan, each student must first be administered a career interest and skills inventory.

(B) For students with an individualized education program, the high school and beyond plan must be developed in alignment with their individualized education program. The high school and beyond plan must be developed in a similar manner and with similar school personnel as for all other students.

(iii)(A) The high school and beyond plan must be updated to reflect high school assessment results in RCW 28A.655.070(3)(b) and to review transcripts, assess progress toward identified goals, and revised as necessary for changing interests, goals, and needs. The plan must identify available interventions and academic support, courses, or both, that are designed for students who are not on track to graduate, to enable them to fulfill high school graduation requirements. Each student's high school and beyond plan must be updated to inform junior year course taking.

(B) For students with an individualized education program, the high school and beyond plan must be updated in alignment with their school to postschool transition plan. The high school and beyond plan must be updated in a similar manner and with similar school personnel as for all other students.

(iv) School districts are encouraged to involve parents and guardians in the process of developing and updating the high school and beyond plan, and the plan must be provided to the students' parents or guardians in their native language if that language is one of the two most frequently spoken non-English languages of students in the district. Nothing in this subsection (1)(c)(iv) prevents districts from providing high school and beyond plans to parents and guardians in additional languages that are not required by this subsection.

(v) All high school and beyond plans must, at a minimum, include the following elements:

(A) Identification of career goals, aided by a skills and interest assessment;

(B) Identification of educational goals;

(C) Identification of dual credit programs and the opportunities they create for students, including eligibility for automatic enrollment in advanced classes under RCW 28A.320.195, career and technical education programs, running start programs, AP courses, international baccalaureate programs, and college in the high school program;

(D) Information about the college bound scholarship program established in chapter 28B.118 RCW;

(E) A four-year plan for course taking that:

(I) Includes information about options for satisfying state and local graduation requirements;

(II) Satisfies state and local graduation requirements;

(III) Aligns with the student's secondary and postsecondary goals, which can include education, training, and career;

(IV) Identifies course sequences to inform academic acceleration, as described in RCW 28A.320.195 that include dual credit courses or programs and are aligned with the student's goals; and

(V) Includes information about the college bound scholarship program, the Washington college grant, and other scholarship opportunities;

(F) Evidence that the student has received the following information on federal and state financial aid programs that help pay for the costs of a postsecondary program:

(I) Information about the documentation necessary for completing the applications; application timeliness and submission deadlines; the importance of submitting applications early; information specific to students who are or have been in foster care; information specific to students who are, or are at risk of being, homeless; information specific to students whose family member or guardians will be required to provide financial and tax information necessary to complete applications; and

(II) Opportunities to participate in sessions that assist students and, when necessary, their family members or guardians, fill out financial aid applications; and

(G) By the end of the twelfth grade, a current resume or activity log that provides a written compilation of the student's education, any work experience, and any community service and how the school district has recognized the community service pursuant to RCW 28A.320.193.

(d) Any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level. Effective with the graduating class of 2015, the state board of education may not establish a requirement for students to complete a culminating project for graduation. A district may establish additional, local requirements for a high school and beyond plan to serve the needs and interests of its students and the purposes of this section.

(e)(i) The state board of education shall adopt rules to implement the career and college ready graduation requirement proposal adopted under board resolution on November 10, 2010, and revised on January 9, 2014, to take effect beginning with the graduating class of 2019 or as otherwise provided in this subsection (1)(e). The rules must include authorization for a school district to waive up to two credits for individual students based on a student's circumstances, provided that none of the waived credits are identified as mandatory core credits by the state board of education. School districts must adhere to written policies authorizing the waivers that must be adopted by each board of directors of a school district that grants diplomas. The rules must also provide that the content of the third credit of mathematics and the content of the third credit of science may be chosen by the student based on the student's interests and high school and beyond plan with agreement of the student's parent or guardian or agreement of the school counselor or principal, or as provided in RCW 28A.230.300(4).

(ii) School districts may apply to the state board of education for a waiver to implement the career and college ready graduation requirement proposal beginning with the graduating class of 2020 or 2021 instead of the graduating class of 2019. In the application, a school district must describe why the waiver is being requested, the specific impediments preventing timely implementation, and efforts that will be taken to achieve implementation with the graduating class proposed under the waiver. The state board of education shall grant a waiver under this subsection (1)(e) to an applying school district at the next subsequent meeting of the board after receiving an application.

(iii) A school district must update the high school and beyond plans for each student who has not earned a score of level 3 or level 4 on the middle school mathematics assessment identified in RCW 28A.655.070 by ninth grade, to ensure that the student takes a mathematics course in both ninth and tenth

grades. This course may include career and technical education equivalencies in mathematics adopted pursuant to RCW 28A.230.097.

(2)(a) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(b) The state board shall reevaluate the graduation requirements for students enrolled in vocationally intensive and rigorous career and technical education programs, particularly those programs that lead to a certificate or credential that is state or nationally recognized. The purpose of the evaluation is to ensure that students enrolled in these programs have sufficient opportunity to earn a certificate of academic achievement, complete the program and earn the program's certificate or credential, and complete other state and local graduation requirements.

(c) The state board shall forward any proposed changes to the high school graduation requirements to the education committees of the legislature for review. The legislature shall have the opportunity to act during a regular legislative session before the changes are adopted through administrative rule by the state board. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized and funded by the legislature through the omnibus appropriations act or other enacted legislation.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) Unless requested otherwise by the student and the student's family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit.

(6) At the college or university level, five quarter or three semester hours equals one high school credit.

Passed by the Senate April 15, 2021.

Passed by the House April 5, 2021.

Approved by the Governor May 13, 2021.
Filed in Office of Secretary of State May 13, 2021.

CHAPTER 308

[Senate Bill 5345]

INDUSTRIAL WASTE COORDINATION PROGRAM

AN ACT Relating to establishing a statewide industrial waste coordination program; amending RCW 42.56.270; adding new sections to chapter 43.31 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that industrial symbiosis networks create valuable collaborative opportunities where the underutilized resources of one company, such as waste, by-products, residues, energy, water, logistics, capacity, expertise, equipment, and materials may be used by another. The legislature further finds that many existing businesses and organizations in the state have the potential to partner in the establishment of these networks, and the formation of industrial symbiosis innovation hubs at the state and local level would facilitate a systems approach that identifies business opportunities to improve resource utilization and productivity for a more sustainable and integrated industrial economy.

Therefore, the legislature intends to establish a statewide industrial waste coordination program in order to nurture and coordinate existing industrial symbiosis efforts and to catalyze new industrial symbiosis opportunities. Furthermore, the legislature intends to establish the program in order to: Find ways of turning waste and by-products into valued resource inputs; reduce waste management costs; generate new business opportunities; increase the size and diversity of business networks; identify means of improving environmental performance; achieve environmental justice in goals and policies; incentivize pathways to family-wage, green jobs; expand the regional circular economy; and drive innovation.

NEW SECTION. Sec. 2. A new section is added to chapter 43.31 RCW to read as follows:

(1) An industrial waste coordination program is established in order to provide expertise, technical assistance, and best practices to support local industrial symbiosis projects.

(2) The industrial waste coordination program must be administered by the department of commerce and administered regionally, with each region provided with a dedicated facilitator and technical and administrative support.

(3) The industrial waste coordination program must facilitate waste exchange by:

(a) Developing inventories of industrial waste innovation currently in operation;

(b) Generating a material flow data collection system in order to capture and manage data on resource availability and potential synergies;

(c) Establishing guidance and best practices for emerging local industrial resource hubs, which must include a consideration of steps to avoid creating or worsening negative impacts to overburdened communities as identified by tools such as the department of health's environmental health disparities map;

(d) Identifying access to capital in order to fund projects, including federal, state, local, and private funding;

(e) Developing economic, environmental, and health disparities metrics to measure the results of industrial or commercial hubs;

(f) Hosting workshops and connecting regional businesses, governments, utilities, research institutions, and other organizations in order to identify opportunities for resource collaboration;

(g) Assisting entities throughout the entire life cycle of industrial symbiosis projects, from identification of opportunities to full project implementation;

(h) Developing economic cluster initiatives in order to spur growth and innovation; and

(i) Making any additional recommendations to the legislature in order to incentivize and facilitate industrial symbiosis.

(4) The department of commerce may coordinate with other agencies, representatives of business and manufacturing networks, and other entities in order to develop material flow generation data and increase multisectoral outreach.

(5) In generating the material flow data collection system under subsections (3)(b) and (4) of this section, the department of commerce may only use publicly available data or data voluntarily provided by program participants. No entity may be required to disclose material flow data. The department of commerce must keep any proprietary business information confidential and such information is exempt from public disclosure, as provided in RCW 42.56.270.

NEW SECTION. Sec. 3. A new section is added to chapter 43.31 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, a competitive industrial symbiosis grant program is established in order to provide grants for the research, development, and deployment of local waste coordination projects.

(2) Grants may go towards:

(a) Existing industrial symbiosis efforts by public or private sector organizations;

(b) Emerging industrial symbiosis opportunities involving public or private sector organizations, including projects arising from:

(i) The industrial waste coordination program established in section 2 of this act;

(ii) Conceptual work completed by public utilities to redirect their wastes to productive use; or

(iii) Existing inventories or project concepts involving specific biobased wastes converted to renewable natural gas;

(c) Research on product development using a specific waste flow;

(d) Feasibility studies to evaluate potential biobased resources;

(e) Feasibility studies for publicly owned utilities to evaluate business models to transform to multiutility operations or for the evaluation of potential symbiosis connections with other regional businesses; or

(f) Other local waste coordination projects as determined by the department of commerce.

(3) The department of commerce must develop a method and criteria for the allocation of grants, subject to the following:

(a) Project allocation should reflect geographic diversity, with grants being distributed equally in western and eastern parts of the state, urban and rural areas, and small towns and large cities;

(b) Project allocation should consider factors such as time to implementation and scale of economic or environmental benefits;

(c) Grants must require a one-to-one nonstate to state match;

(d) Individual grant awards may not exceed \$500,000; and

(e) Project allocation should avoid creating or worsening environmental health disparities and should make use of tools such as the department of health's environmental health disparities map.

Sec. 4. RCW 42.56.270 and 2020 c 238 s 11 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 producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

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

(c) Valuable formulae or financial or proprietary commercial information records received during a consultative visit or while providing consultative services to a licensed marijuana business in accordance with 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); ~~((and))~~

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

(iii) Financial or proprietary information collected from any person and provided to the department of commerce pursuant to section 2 (3)(b) and (4) of this act;

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

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

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

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter ~~((70.95N))~~ 70A.500 RCW to implement chapter ~~((70.95N))~~ 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 ~~((70.95N.190(4)))~~ 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 as allowed under chapter 69.50 RCW;

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

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

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

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

(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 ~~((70.375))~~ 70A.515 RCW that a court has determined are confidential valuable commercial information under RCW ~~((70.375-130))~~ 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.

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, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the Senate April 14, 2021.

Passed by the House April 10, 2021.

Approved by the Governor May 13, 2021.

Filed in Office of Secretary of State May 13, 2021.

CHAPTER 309

[Engrossed Second Substitute Senate Bill 5399]

UNIVERSAL HEALTH CARE COMMISSION

AN ACT Relating to the creation of a universal health care commission; adding a new section to chapter 41.05 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:

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

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

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

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

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

(f) Multiple economic analyses show that a universal system is less expensive, more equitable, and will produce billions in savings per year; and

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

(2) The legislature intends to create a permanent universal health care commission to:

(a) Implement immediate and impactful changes in the state's current health care system to increase access to quality, affordable health care by streamlining access to coverage, reducing fragmentation of health care financing across multiple public and private health insurance entities, reducing unnecessary administrative costs, reducing health disparities, and establishing mechanisms to expeditiously link residents with their chosen providers; and

(b) Establish the preliminary infrastructure to create a universal health system, including a unified financing system, that controls health care spending so that the system is affordable to the state, employers, and individuals, once the necessary federal authorities have been realized.

(3) The legislature further intends that the state, in collaboration with all communities, health plans, and providers, should take steps to improve health outcomes for all residents of the state.

NEW SECTION. Sec. 2. A new section is added to chapter 41.05 RCW to read as follows:

(1) The universal health care commission is established to create immediate and impactful changes in the health care access and delivery system in Washington and to prepare the state for the creation of a health care system that provides coverage and access for all Washington residents through a unified financing system once the necessary federal authority has become available. The authority must begin any necessary federal application process within 60 days of its availability.

(2) The commission includes the following voting members:

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

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

(c) The secretary of the department of health, or the secretary's designee;

(d) The director of the health care authority, or the director's designee;

(e) The chief executive officer of the Washington health benefit exchange, or the chief executive officer's designee;

(f) The insurance commissioner, or the commissioner's designee;

(g) The director of the office of equity, or the director's designee; and

(h) Six members appointed by the governor, using an equity lens, with knowledge and experience regarding health care coverage, access, and financing, or other relevant expertise, including at least one consumer representative and at least one invitation to an individual representing tribal governments with knowledge of the Indian health care delivery in the state.

(3)(a) The governor must appoint the chair of the commission from any of the members identified in subsection (2) of this section for a term of no more than three years. A majority of the voting members of the commission shall constitute a quorum for any votes of the commission.

(b) The commission's meetings shall be open to the public pursuant to chapter 42.30 RCW. The authority must publish on its website the dates and locations of commission meetings, agendas of prior and upcoming commission meetings, and meeting materials for prior and upcoming commission meetings.

(4) The health care authority shall staff the commission.

(5) Members of the commission shall serve without compensation but must be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060.

(6) The commission may establish advisory committees that include members of the public with knowledge and experience in health care, in order to support stakeholder engagement and an analytical process by which key design options are developed. A member of an advisory committee need not be a member of the commission.

(7) By November 1, 2022, the commission shall submit a baseline report to the legislature and the governor, and post it on the authority's website. The report must include:

(a) A complete synthesis of analyses done on Washington's existing health care finance and delivery system, including cost, quality, workforce, and provider consolidation trends and how they impact the state's ability to provide all Washingtonians with timely access to high quality, affordable health care;

(b) A strategy for developing implementable changes to the state's health care financing and delivery system to increase access to health care services and health coverage, reduce health care costs, reduce health disparities, improve quality, and prepare for the transition to a unified health care financing system by actively examining data and reports from sources that are monitoring the health care system. Such sources shall include data or reports from the health care cost transparency board under RCW 70.390.070, the public health advisory board, the governor's interagency coordinating council on health disparities under RCW 43.20.275, the all-payer health care claims database established under chapter 43.371 RCW, prescription drug price data, performance measure data under chapter 70.320 RCW, and other health care cost containment programs;

(c) An inventory of the key design elements of a universal health care system including:

(i) A unified financing system including, but not limited to, a single-payer financing system;

(ii) Eligibility and enrollment processes and requirements;

(iii) Covered benefits and services;

(iv) Provider participation;

(v) Effective and efficient provider payments, including consideration of global budgets and health plan payments;

(vi) Cost containment and savings strategies that are designed to assure that total health care expenditures do not exceed the health care cost growth benchmark established under chapter 70.390 RCW;

(vii) Quality improvement strategies;

(viii) Participant cost sharing, if appropriate;

(ix) Quality monitoring and disparities reduction;

(x) Initiatives for improving culturally appropriate health services within public and private health-related agencies;

(xi) Strategies to reduce health disparities including, but not limited to, mitigating structural racism and other determinants of health as set forth by the office of equity;

(xii) Information technology systems and financial management systems;

(xiii) Data sharing and transparency; and

(xiv) Governance and administration structure, including integration of federal funding sources;

(d) An assessment of the state's current level of preparedness to meet the elements of (c) of this subsection and steps Washington should take to prepare for a just transition to a unified health care financing system, including a single-payer financing system. Recommendations must include, but are not limited to, administrative changes, reorganization of state programs, retraining programs for displaced workers, federal waivers, and statutory and constitutional changes;

(e) Recommendations for implementing reimbursement rates for health care providers serving medical assistance clients who are enrolled in programs under chapter 74.09 RCW at a rate that is no less than 80 percent of the rate paid by medicare for similar services;

(f) Recommendations for coverage expansions to be implemented prior to and consistent with a universal health care system, including potential funding sources; and

(g) Recommendations for the creation of a finance committee to develop a financially feasible model to implement universal health care coverage using state and federal funds.

(8) Following the submission of the baseline report on November 1, 2022, the commission must structure its work to continue to further identify opportunities to implement reforms consistent with subsection (7)(b) of this section and to implement structural changes to prepare the state for a transition to a unified health care financing system. The commission must submit annual reports to the governor and the legislature each November 1st, beginning in 2023. The reports must detail the work of the commission, the opportunities identified to advance the goals under subsection (7) of this section, which, if any, of the opportunities a state agency is implementing, which, if any, opportunities

should be pursued with legislative policy or fiscal authority, and which opportunities have been identified as beneficial, but lack federal authority to implement.

(9) Subject to sufficient existing agency authority, state agencies may implement specific elements of any report issued under this section. This section shall not be construed to authorize the commission to implement a universal health care system through a unified financing system until there is further action by the legislature and the governor.

(10) The commission must hold its first meeting within 90 days of the effective date of this section.

Passed by the Senate April 19, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 13, 2021.

Filed in Office of Secretary of State May 13, 2021.

CHAPTER 310

[Engrossed Substitute Senate Bill 5405]

JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE—RACIAL EQUITY ANALYSES

AN ACT Relating to racial equity analysis for the joint legislative audit and review committee work; amending RCW 44.28.005; adding a new section to chapter 44.28 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 44.28 RCW to read as follows:

The joint committee shall incorporate a racial equity analysis into performance audits, sunset reviews, and other audits or reports conducted by the joint committee. The joint committee shall note in its audits, reviews, and reports if a racial equity analysis is not necessary or appropriate. The joint committee may work with the office of equity, the governor's office of Indian affairs, the LGBTQ commission, the Washington state women's commission, and the ethnic commissions to design the racial equity analysis required under this section.

***NEW SECTION. Sec. 2.** (1) The joint legislative audit and review committee must complete a racial equity analysis by December 31, 2021, on the impact of the restrictions on in-person K-12 education put in place since the state of emergency declared on February 29, 2020, for all counties in Washington due to COVID-19.

(2) This section expires July 1, 2022.

**Sec. 2 was vetoed. See message at end of chapter.*

Sec. 3. RCW 44.28.005 and 1996 c 288 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Legislative auditor" means the executive officer of the joint legislative audit and review committee.

(2) "Economy and efficiency audits" means performance audits that establish: (a) Whether a state agency or unit of local government receiving state funds is acquiring, protecting, and using its resources such as personnel,

property, and space economically and efficiently; (b) the causes of inefficiencies or uneconomical practices; and (c) whether the state agency or local government has complied with significant laws and rules in acquiring, protecting, and using its resources.

(3) "Ethnic commissions" means the Washington state commission on African American affairs established in chapter 43.113 RCW, the Washington state commission on Asian Pacific American affairs established in chapter 43.117 RCW, and the Washington state commission on Hispanic affairs established in chapter 43.115 RCW.

(4) "Final compliance report" means a written document, as approved by the joint committee, that states the specific actions a state agency or unit of local government receiving state funds has taken to implement recommendations contained in the final performance audit report and the preliminary compliance report. Any recommendations, including proposed legislation and changes in the agency's rules and practices or the local government's practices, based on testimony received, must be included in the final compliance report.

~~((4))~~ (5) "Final performance audit report" means a written document adopted by the joint legislative audit and review committee that contains the findings and proposed recommendations made in the preliminary performance audit report, the final recommendations adopted by the joint committee, any comments to the preliminary performance audit report by the joint committee, and any comments to the preliminary performance audit report by the state agency or local government that was audited.

~~((5))~~ (6) "Joint committee" means the joint legislative audit and review committee.

~~((6))~~ (7) "Local government" means a city, town, county, special purpose district, political subdivision, municipal corporation, or quasi-municipal corporation, including a public corporation created by such an entity.

~~((7))~~ (8) "Performance audit" means an objective and systematic assessment of a state agency or any of its programs, functions, or activities, or a unit of local government receiving state funds, 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. A performance audit of a local government may only be made to determine whether the local government is using state funds for their intended purpose in an efficient and effective manner.

~~((8))~~ (9) "Performance measures" are a composite of key indicators of a program's or activity's inputs, outputs, outcomes, productivity, timeliness, and/or quality. They are means of evaluating policies and programs by measuring results against agreed upon program goals or standards.

~~((9))~~ (10) "Preliminary compliance report" means a written document that states the specific actions a state agency or unit of local government receiving state funds has taken to implement any recommendations contained in the final performance audit report.

~~((10))~~ (11) "Preliminary performance audit report" means a written document prepared for review and comment by the joint legislative audit and review committee after the completion of a performance audit. 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 or local government audited.

~~((+H))~~ (12) "Program audits" means performance audits that determine: (a) The extent to which desired outcomes or results are being achieved; (b) the causes for not achieving intended outcomes or results; and (c) compliance with significant laws and rules applicable to the program.

~~((+2))~~ (13) "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 elective offices in the executive branch of state government.

Passed by the Senate March 5, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 13, 2021, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 2, Engrossed Substitute Senate Bill No. 5405 entitled:

"AN ACT Relating to racial equity analysis for the joint legislative audit and review committee work."

Section 2 directs the Joint Legislative Audit and Review Committee (JLARC) to complete a racial equity analysis on the impact of the restrictions on in-person K-12 education put in place since the COVID-19 state of emergency was declared on February 29, 2020, for all counties in Washington. Racial equity in education is a longstanding issue that was made worse by the COVID pandemic. Beyond the necessary school restrictions imposed, COVID impacts on education also included, but are not limited to, public health, economic disruption, teacher safety and loss of child care. I believe a broader review of racial inequities in K-12 is needed, and I will ask the Washington Student Achievement Council to conduct this review.

For these reasons I have vetoed Section 2 of Engrossed Substitute Senate Bill No. 5405.

With the exception of Section 2, Engrossed Substitute Senate Bill No. 5405 is approved."

CHAPTER 311

[Engrossed Senate Bill 5476]

DRUG POSSESSION—STATE V. BLAKE DECISION

AN ACT Relating to responding to the State v. Blake decision by addressing justice system responses and behavioral health prevention, treatment, and related services for individuals using or possessing controlled substances, counterfeit substances, and legend drugs; amending RCW 69.50.4011, 69.50.4013, 69.50.4014, 69.41.030, 69.41.030, 69.50.412, 9.94A.518, 13.40.0357, 2.24.010, 2.24.040, 9.94A.728, and 10.64.110; reenacting and amending RCW 10.31.110; adding new sections to chapter 71.24 RCW; adding a new section to chapter 43.101 RCW; adding a new section to chapter 10.31 RCW; creating a new section; prescribing penalties; making appropriations; providing an effective date; providing expiration dates; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority, in collaboration with the substance use recovery services advisory committee established in subsection (2) of this section, shall establish a

substance use recovery services plan. The purpose of the plan is to implement measures to assist persons with substance use disorder in accessing outreach, treatment, and recovery support services that are low barrier, person centered, informed by people with lived experience, and culturally and linguistically appropriate. The plan must articulate the manner in which continual, rapid, and widespread access to a comprehensive continuum of care will be provided to all persons with substance use disorder.

(2)(a) The authority shall establish the substance use recovery services advisory committee to collaborate with the authority in the development and implementation of the substance use recovery services plan under this section. The authority must appoint members to the advisory committee who have relevant background related to the needs of persons with substance use disorder. The advisory committee shall be reflective of the community of individuals living with substance use disorder, including persons who are Black, indigenous, and persons of color, persons with co-occurring substance use disorders and mental health conditions, as well as persons who represent the unique needs of rural communities. The advisory committee shall be convened and chaired by the director of the authority, or the director's designee. In addition to the member from the authority, the advisory committee shall include:

(i) One member and one alternate from each of the two largest caucuses of the house of representatives, as appointed by the speaker of the house of representatives;

(ii) One member and one alternate from each of the two largest caucuses of the senate, as appointed by the president of the senate;

(iii) One representative of the governor's office;

(iv) At least one adult in recovery from substance use disorder who has experienced criminal legal consequences as a result of substance use;

(v) At least one youth in recovery from substance use disorder who has experienced criminal legal consequences as a result of substance use;

(vi) One expert from the addictions, drug, and alcohol institute at the University of Washington;

(vii) One outreach services provider;

(viii) One substance use disorder treatment provider;

(ix) One peer recovery services provider;

(x) One recovery housing provider;

(xi) One expert in serving persons with co-occurring substance use disorders and mental health conditions;

(xii) One expert in antiracism and equity in health care delivery systems;

(xiii) One employee who provides substance use disorder treatment or services as a member of a labor union representing workers in the behavioral health field;

(xiv) One representative of the association of Washington health plans;

(xv) One expert in diversion from the criminal legal system to community-based care for persons with substance use disorder;

(xvi) One representative of public defenders;

(xvii) One representative of prosecutors;

(xviii) One representative of sheriffs and police chiefs;

(xix) One representative of a federally recognized tribe; and

(xx) One representative of local governments.

(b) The advisory committee may create subcommittees with expanded participation.

(c) In its collaboration with the advisory committee to develop the substance use recovery services plan, the authority must give due consideration to the recommendations of the advisory committee. If the authority determines that any of the advisory committee's recommendations are not feasible to adopt and implement, the authority must notify the advisory committee and offer an explanation.

(d) The advisory committee must convene as necessary for the development of the substance use recovery services plan and to provide consultation and advice related to the development and adoption of rules to implement the plan. The advisory committee must convene to monitor implementation of the plan and advise the authority.

(3) The plan must consider:

(a) The points of intersection that persons with substance use disorder have with the health care, behavioral health, criminal, civil legal, and child welfare systems as well as the various locations in which persons with untreated substance use disorder congregate, including homeless encampments, motels, and casinos;

(b) New community-based care access points, including crisis stabilization services and the safe station model in partnership with fire departments;

(c) Current regional capacity for substance use disorder assessments, including capacity for persons with co-occurring substance use disorders and mental health conditions, each of the American society of addiction medicine levels of care, and recovery support services;

(d) Barriers to accessing the existing behavioral health system and recovery support services for persons with untreated substance use disorder, especially indigent youth and adult populations, persons with co-occurring substance use disorders and mental health conditions, and populations chronically exposed to criminal legal system responses, and possible innovations that could improve the quality and accessibility of care for those populations;

(e) Evidence-based, research-based, and promising treatment and recovery services appropriate for target populations, including persons with co-occurring substance use disorders and mental health conditions;

(f) Options for leveraging existing integrated managed care, medicaid waiver, American Indian or Alaska Native fee-for-service behavioral health benefits, and private insurance service capacity for substance use disorders, including but not limited to coordination with managed care organizations, behavioral health administrative services organizations, the Washington health benefit exchange, accountable communities of health, and the office of the insurance commissioner;

(g) Framework and design assistance for jurisdictions to assist in compliance with the requirements of RCW 10.31.110 for diversion of individuals with complex or co-occurring behavioral health conditions to community-based care whenever possible and appropriate, and identifying resource gaps that impede jurisdictions in fully realizing the potential impact of this approach;

(h) The design of recovery navigator programs in section 2 of this act, including reporting requirements by behavioral health administrative services

organizations to monitor the effectiveness of the programs and recommendations for program improvement;

(i) The proposal of a funding framework in which, over time, resources are shifted from punishment sectors to community-based care interventions such that community-based care becomes the primary strategy for addressing and resolving public order issues related to behavioral health conditions;

(j) Strategic grant making to community organizations to promote public understanding and eradicate stigma and prejudice against persons with substance use disorder by promoting hope, empathy, and recovery;

(k) Recommendations for diversion to community-based care for individuals with substance use disorders, including persons with co-occurring substance use disorders and mental health conditions, across all points of the sequential intercept model;

(l) Recommendations regarding the appropriate criminal legal system response, if any, to possession of controlled substances;

(m) Recommendations regarding the collection and reporting of data that identifies the number of persons law enforcement officers and prosecutors engage related to drug possession and disparities across geographic areas, race, ethnicity, gender, age, sexual orientation, and income. The recommendations shall include, but not be limited to, the number and rate of persons who are diverted from charges to recovery navigator services or other services, who receive services and what type of services, who are charged with simple possession, and who are taken into custody; and

(n) The design of a mechanism for referring persons with substance use disorder or problematic behaviors resulting from substance use into the supportive services described in section 2 of this act.

(4) The plan and related rules adopted by the authority must give due consideration to persons with co-occurring substance use disorders and mental health conditions and the needs of youth. The plan must include the substance use outreach, treatment, and recovery services outlined in sections 2 through 4 of this act which must be available in or accessible by all jurisdictions. These services must be equitably distributed across urban and rural settings. If feasible and appropriate, service initiation shall be made available on demand through 24-hour, seven days a week peer recovery coach response, behavioral health walk-in centers, or other innovative rapid response models. These services must, at a minimum, incorporate the following principles: Establish low barriers to entry and reentry; improve the health and safety of the individual; reduce the harm of substance use and related activity for the public; include integrated and coordinated services; incorporate structural competency and antiracism; use noncoercive methods of engaging and retaining people in treatment and recovery services, including contingency management; consider the unique needs of rural communities; and have a focus on services that increase social determinants of health.

(5) In developing the plan, the authority shall:

(a) Align the components of the plan with previous and ongoing studies, plans, and reports, including the Washington state opioid overdose and response plan, published by the authority, the roadmap to recovery planning grant strategy being developed by the authority, and plans associated with federal block grants; and

(b) Coordinate its work with the efforts of the blue ribbon commission on the intersection of the criminal justice and behavioral health crisis systems and the crisis response improvement strategy committee established in chapter . . . , Laws of 2021 (Engrossed Second Substitute House Bill No. 1477).

(6) The authority must submit a preliminary report by December 1, 2021, regarding progress toward the substance use recovery services plan. The authority must submit the final substance use recovery services plan to the governor and the legislature by December 1, 2022. After submitting the plan, the authority shall adopt rules and enter into contracts with providers to implement the plan by December 1, 2023. In addition to seeking public comment under chapter 34.05 RCW, the authority must adopt rules in accordance with the recommendations of the substance use recovery services advisory committee as provided in subsection (2) of this section.

(7) In consultation with the substance use recovery services advisory committee, the authority must submit a report on the implementation of the substance use recovery services plan to the appropriate committees of the legislature and governor by December 1st of each year, beginning in 2023. This report shall include progress on the substance use disorder continuum of care, including availability of outreach, treatment, and recovery support services statewide.

(8) For the purposes of this section, "recovery support services" means a collection of resources that sustain long-term recovery from substance use disorder, including for persons with co-occurring substance use disorders and mental health conditions, recovery housing, permanent supportive housing, employment and education pathways, peer supports and recovery coaching, family education, technological recovery supports, transportation and child care assistance, and social connectedness.

(9) This section expires December 31, 2026.

NEW SECTION. Sec. 2. A new section is added to chapter 71.24 RCW to read as follows:

(1) Each behavioral health administrative services organization shall establish a recovery navigator program. The program shall provide community-based outreach, intake, assessment, and connection to services and, as appropriate, long-term intensive case management and recovery coaching services, to youth and adults with substance use disorder, including for persons with co-occurring substance use disorders and mental health conditions, who are referred to the program from diverse sources and shall facilitate and coordinate connections to a broad range of community resources for youth and adults with substance use disorder, including treatment and recovery support services.

(2) The authority shall establish uniform program standards for behavioral health administrative services organizations to follow in the design of their recovery navigator programs. The uniform program standards must be modeled upon the components of the law enforcement assisted diversion program and address project management, field engagement, biopsychosocial assessment, intensive case management and care coordination, stabilization housing when available and appropriate, and, as necessary, legal system coordination. The authority must adopt the uniform program standards from the components of the law enforcement assisted diversion program to accommodate an expanded population of persons with substance use disorders, including persons with co-

occurring substance use disorders and mental health conditions, and allow for referrals from a broad range of sources. In addition to accepting referrals from law enforcement, the uniform program standards must provide guidance for accepting referrals on behalf of persons with substance use disorders, including persons with co-occurring substance use disorders and mental health conditions, from various sources including, but not limited to, self-referral, family members of the individual, emergency department personnel, persons engaged with serving homeless persons, including those living unsheltered or in encampments, fire department personnel, emergency medical service personnel, community-based organizations, members of the business community, harm reduction program personnel, faith-based organization staff, and other sources within the criminal legal system, as outlined within the sequential intercept model. In developing response time requirements within the statewide program standards, the authority shall require, subject to the availability of amounts appropriated for this specific purpose, that responses to referrals from law enforcement occur immediately for in-custody referrals and shall strive for rapid response times to other appropriate settings such as emergency departments.

(3) Subject to the availability of amounts appropriated for this specific purpose, the authority shall provide funding to each behavioral health administrative services organization for the development of its recovery navigator program. Before receiving funding for implementation and ongoing administration, each behavioral health administrative services organization must submit a program plan that demonstrates the ability to fully comply with statewide program standards. The authority shall establish a schedule for the regular review of behavioral health administrative services organizations' programs. The authority shall arrange for technical assistance to be provided by the LEAD national support bureau to all behavioral health administrative services organizations.

(4) Each behavioral health administrative services organization must have a substance use disorder regional administrator for its recovery navigator program. The regional administrator shall be responsible for assuring compliance with program standards, including staffing standards. Each recovery navigator program must maintain a sufficient number of appropriately trained personnel for providing intake and referral services, conducting comprehensive biopsychosocial assessments, providing intensive case management services, and making warm handoffs to treatment and recovery support services along the continuum of care. Program staff must include people with lived experience with substance use disorder to the extent possible. The substance use disorder regional administrator must assure that staff who are conducting intake and referral services and field assessments are paid a livable and competitive wage and have appropriate initial training and receive continuing education.

(5) Each recovery navigator program must submit quarterly reports to the authority with information identified by the authority and the substance use recovery services advisory committee. The reports must be provided to the substance use recovery services advisory committee for discussion at meetings following the submission of the reports.

NEW SECTION, Sec. 3. A new section is added to chapter 71.24 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the authority shall establish a grant program to:

(a) Provide treatment services for low-income individuals with substance use disorder who are not eligible for medical assistance programs under chapter 74.09 RCW, with priority for the use of the funds for very low-income individuals; and

(b) Provide treatment services that are not eligible for federal matching funds to individuals who are enrolled in medical assistance programs under chapter 74.09 RCW.

(2) In establishing the grant program, the authority shall consult with the substance use recovery services advisory committee established in section 1 of this act, behavioral health administrative services organizations, managed care organizations, and regional behavioral health providers to adopt regional standards that are consistent with the substance use recovery services plan developed under section 1 of this act to provide sufficient access for youth and adults to meet each region's needs for:

(a) Opioid use disorder treatment programs;

(b) Low-barrier buprenorphine clinics;

(c) Outpatient substance use disorder treatment;

(d) Withdrawal management services, including both subacute and medically managed withdrawal management;

(e) Secure withdrawal management and stabilization services;

(f) Inpatient substance use disorder treatment services;

(g) Inpatient co-occurring disorder treatment services; and

(h) Behavioral health crisis walk-in and drop-off services.

(3) Funds in the grant program must be used to reimburse providers for the provision of services to individuals identified in subsection (1) of this section. The authority may use the funds to support evidence-based practices and promising practices that are not reimbursed by medical assistance or private insurance, including contingency management. In addition, funds may be used to provide assistance to organizations to establish or expand services as reasonably necessary and feasible to increase the availability of services to achieve the regional access standards developed under subsection (2) of this section, including such items as training and recruitment of personnel, reasonable modifications to existing facilities to accommodate additional clients, start-up funding, and similar forms of assistance. Funds may not be used to support the ongoing operational costs of a provider or organization, except in relation to payments for specific service encounters with an individual identified in subsection (1) of this section or for noninsurance reimbursable services.

(4) The authority must establish regional access standards under subsection (2) of this section, subject to the availability of amounts appropriated for this specific purpose, by January 1, 2023, and begin distributing grant funds by March 1, 2023.

NEW SECTION. Sec. 4. A new section is added to chapter 71.24 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the authority shall establish the expanded recovery support services program to increase access to recovery services for individuals in recovery from substance use disorder.

(2) In establishing the program, the authority shall consult with the substance use recovery services advisory committee established in section 1 of this act, behavioral health administrative services organizations, regional behavioral health providers, and regional community organizations that support individuals in recovery from substance use disorders, including individuals with co-occurring substance use disorders and mental health conditions, to adopt regional expanded recovery plans that are consistent with the substance use recovery services plan developed under section 1 of this act to provide sufficient access for youth and adults to meet each region's needs for:

- (a) Recovery housing;
- (b) Employment pathways, support, training, and job placement, including evidence-based supported employment program services;
- (c) Education pathways, including recovery high schools and collegiate recovery programs;
- (d) Recovery coaching and substance use disorder peer support;
- (e) Social connectedness initiatives, including the recovery café model;
- (f) Family support services, including family reconciliation services;
- (g) Technology-based recovery support services;
- (h) Transportation assistance; and
- (i) Legal support services.

(3) Funds in the expanded recovery support services program must be used to reimburse providers for the provision of services to individuals in recovery from substance use disorders, including individuals with co-occurring substance use disorders and mental health conditions. In addition, the funds may be used to provide assistance to organizations to establish or expand recovery support services as reasonably necessary and feasible to increase the availability of services to achieve the regional expanded recovery plans developed under subsection (2) of this section, including such items as training and recruitment of personnel, reasonable modifications to existing facilities to accommodate additional clients, and similar forms of assistance.

(4) The authority must establish regional expanded recovery plans under subsection (2) of this section, subject to the availability of amounts appropriated for this specific purpose, by January 1, 2023, and begin distributing grant funds by March 1, 2023.

NEW SECTION. Sec. 5. A new section is added to chapter 71.24 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the authority shall establish a homeless outreach stabilization transition program to expand access to modified assertive community treatment services provided by multidisciplinary behavioral health outreach teams to serve people who are living with serious substance use disorders or co-occurring substance use disorders and mental health conditions, are experiencing homelessness, and whose severity of behavioral health symptom acuity level creates a barrier to accessing and receiving conventional behavioral health services and outreach models.

(a) In establishing the program, the authority shall consult with behavioral health outreach organizations who have experience delivering this service model in order to establish program guidelines regarding multidisciplinary team staff

types, service intensity and quality fidelity standards, and criteria to ensure programs are reaching the appropriate priority population.

(b) Funds for the homeless outreach stabilization transition program must be used to reimburse organizations for the provision of multidisciplinary outreach services to individuals who are living with substance use disorders or co-occurring substance use and mental health disorders and are experiencing homelessness or transitioning from homelessness to housing. The funds may be used to provide assistance to organizations to establish or expand services as reasonably necessary to create a homeless outreach stabilization transition program, including items such as training and recruitment of personnel, outreach and engagement resources, client engagement and health supplies, medications for people who do not have access to insurance, and similar forms of assistance.

(c) The authority must establish one or more homeless outreach stabilization transition programs by January 1, 2024, and begin distributing grant funds by March 1, 2024.

(2) Subject to the availability of amounts appropriated for this specific purpose, the authority shall establish a project for psychiatric outreach to the homeless program to expand access to behavioral health medical services for people who are experiencing homelessness and living in permanent supportive housing.

(a) In establishing the program, the authority shall consult with behavioral health medical providers, homeless service providers, and permanent supportive housing providers that support people living with substance use disorders, co-occurring substance use and mental health conditions, and people who are currently or have formerly experienced homelessness.

(b) Funds for the project for psychiatric outreach to the homeless program must be used to reimburse organizations for the provision of medical services to individuals who are living with or in recovery from substance use disorders, co-occurring substance use and mental health disorders, or other behavioral and physical health conditions. Organizations must provide medical services to people who are experiencing homelessness or are living in permanent supportive housing and would be at risk of homelessness without access to appropriate services. The funds may be used to provide assistance to organizations to establish or expand behavioral health medical services as reasonably necessary to create a project for psychiatric outreach to the homeless program, including items such as training and recruitment of personnel, outreach and engagement resources, medical equipment and health supplies, medications for people who do not have access to insurance, and similar forms of assistance.

(c) The authority must establish one or more projects for psychiatric outreach to the homeless programs by January 1, 2024, and begin distributing grant funds by March 1, 2024.

(3) Subject to the availability of amounts appropriated for this specific purpose, the authority shall increase contingency management resources for opioid treatment networks that are serving people living with co-occurring stimulant use and opioid use disorder.

(4) Subject to the availability of amounts appropriated for this specific purpose, the authority shall develop a plan for implementing a comprehensive statewide substance misuse prevention effort. The plan must be completed by January 1, 2024.

(5) Subject to the availability of amounts appropriated for this specific purpose, the authority shall administer a competitive grant process to broaden existing local community coalition efforts to prevent substance misuse by increasing relevant protective factors while decreasing risk factors. Coalitions are to be open to all stakeholders interested in substance misuse prevention, including, but not limited to, representatives from people in recovery, law enforcement, education, behavioral health, parent organizations, treatment organizations, organizations serving youth, prevention professionals, and business.

Sec. 6. RCW 10.31.110 and 2019 c 326 s 3 and 2019 c 325 s 5004 are each reenacted and amended to read as follows:

(1) When a police officer has reasonable cause to believe that the individual has committed acts constituting a crime, and the individual is known by history or consultation with the behavioral health administrative services organization, managed care organization, ~~((behavioral health administrative services organization,))~~ crisis hotline, ~~((or))~~ local crisis services providers, or community health providers to ((suffer from)) have a mental disorder or substance use disorder, in addition to existing authority under state law or local policy, as an alternative to arrest, the arresting officer is authorized and encouraged to:

(a) Take the individual to a crisis stabilization unit as defined in RCW 71.05.020. Individuals delivered to a crisis stabilization unit pursuant to this section may be held by the facility for a period of up to twelve hours. The individual must be examined by a mental health professional or substance use disorder professional within three hours of arrival;

(b) Take the individual to a triage facility as defined in RCW 71.05.020. An individual delivered to a triage facility which has elected to operate as an involuntary facility may be held up to a period of twelve hours. The individual must be examined by a mental health professional or substance use disorder professional within three hours of arrival;

(c) Refer the individual to a ~~((mental health professional))~~ designated crisis responder for evaluation for initial detention and proceeding under chapter 71.05 RCW; ~~((or))~~

(d) Release the individual upon agreement to voluntary participation in outpatient treatment;

(e) Refer the individual to youth, adult, or geriatric mobile crisis response services, as appropriate; or

(f) Refer the individual to the regional entity responsible to receive referrals in lieu of legal system involvement, including the recovery navigator program described in section 2 of this act.

(2) If the individual is released to the community from the facilities in subsection (1)(a) through (c) of this section, the mental health provider or substance use disorder professional shall make reasonable efforts to inform the arresting officer of the planned release prior to release if the arresting officer has specifically requested notification and provided contact information to the provider.

(3) In deciding whether to refer the individual to treatment under this section, the police officer must be guided by local law enforcement diversion guidelines for behavioral health developed and mutually agreed upon with the prosecuting authority with an opportunity for consultation and comment by the

defense bar and disability community. These guidelines must address, at a minimum, the length, seriousness, and recency of the known criminal history of the individual, the mental health history of the individual, if available, the substance use disorder history of the individual, if available, the opinions of a mental health professional, if available, the opinions of a substance use disorder professional, if available, and the circumstances surrounding the commission of the alleged offense. The guidelines must include a process for clearing outstanding warrants or referring the individual for assistance in clearing outstanding warrants, if any, and issuing a new court date, if appropriate, without booking or incarcerating the individual or disqualifying ~~((him or her))~~ the individual from referral to treatment under this section, and define the circumstances under which such action is permissible. Referrals to services, care, and treatment for substance use disorder must be made in accordance with protocols developed for the recovery navigator program described in section 2 of this act.

(4) Any agreement to participate in treatment or services in lieu of jail booking or referring a case for prosecution shall not require individuals to stipulate to any of the alleged facts regarding the criminal activity as a prerequisite to participation in ~~((a mental health treatment))~~ the alternative response described in this section. ~~((The))~~ Any agreement is inadmissible in any criminal or civil proceeding. ~~((The agreement does))~~ Such agreements do not create immunity from prosecution for the alleged criminal activity.

(5) If ~~((an individual violates such agreement and the mental health treatment alternative is no longer appropriate))~~ there are required terms of participation in the services or treatment to which an individual was referred under this section, and if the individual violates such terms and is therefore no longer participating in services:

(a) The ~~((mental health))~~ behavioral health or service provider shall inform the referring law enforcement agency of the violation, if consistent with the terms of the program and applicable law; and

(b) The original charges may be filed or referred to the prosecutor, as appropriate, and the matter may proceed accordingly, unless filing or referring the charges is inconsistent with the terms of a local diversion program or a recovery navigator program described in section 2 of this act.

(6) The police officer is immune from liability for any good faith conduct under this section.

NEW SECTION. Sec. 7. A new section is added to chapter 43.101 RCW to read as follows:

(1) Beginning July 1, 2022, all law enforcement personnel required to complete basic law enforcement training under RCW 43.101.200 must receive training on law enforcement interaction with persons with substance use disorders, including persons with co-occurring substance use disorders and mental health conditions, and referral to treatment and recovery services and the unique referral processes for youth, as part of the basic law enforcement training. The training must be developed by the commission in collaboration with the University of Washington behavioral health institute and agencies that have expertise in the area of working with persons with substance use disorders, including law enforcement diversion of such individuals to community-based care. In developing the training, the commission must also examine existing

courses certified by the commission that relate to persons with a substance use disorder, and should draw on existing training partnerships with the Washington association of sheriffs and police chiefs.

(2) The training must consist of classroom instruction or internet instruction and shall replicate likely field situations to the maximum extent possible. The training should include, at a minimum, core instruction in all of the following:

(a) Proper procedures for referring persons to the recovery navigator program in accordance with section 2 of this act;

(b) The etiology of substance use disorders, including the role of trauma;

(c) Barriers to treatment engagement experienced by many with such disorders who have contact with the legal system;

(d) How to identify indicators of substance use disorder and how to respond appropriately in a variety of common situations;

(e) Conflict resolution and de-escalation techniques for potentially dangerous situations involving persons with a substance use disorder;

(f) Appropriate language usage when interacting with persons with a substance use disorder;

(g) Alternatives to lethal force when interacting with potentially dangerous persons with a substance use disorder;

(h) The principles of recovery and the multiple pathways to recovery; and

(i) Community and state resources available to serve persons with substance use disorders and how these resources can be best used by law enforcement to support persons with a substance use disorder in their communities.

(3) In addition to incorporation into the basic law enforcement training under RCW 43.101.200, training must be made available to law enforcement agencies, through electronic means, for use during in-service training.

Sec. 8. RCW 69.50.4011 and 2003 c 53 s 332 are each amended to read as follows:

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

(a) Any person to create((s)) or deliver((s or possess)) a counterfeit substance; or

(b) Any person to knowingly possess a counterfeit substance.

(2) Any person who violates subsection (1)(a) of this section with respect to:

(a) A counterfeit substance classified in Schedule I or II which is a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(b) A counterfeit substance which is methamphetamine, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(c) Any other counterfeit substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A counterfeit substance classified in Schedule IV, except flunitrazepam, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(e) A counterfeit substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3) A violation of subsection (1)(b) of this section is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

Sec. 9. 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 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 ~~((class C felony punishable under chapter 9A.20 RCW))~~ 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 concentrates, or marijuana-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, useable marijuana, marijuana concentrates, and marijuana-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))~~ (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 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;

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

(iii) Thirty-six ounces of marijuana-infused product in liquid form; or

(iv) Three and one-half grams of marijuana concentrates.

(b) The act of delivering marijuana or a marijuana product as authorized under this subsection ~~((4))~~ (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 product must be in the original packaging as purchased from the marijuana retailer.

~~((5))~~ (6) No person under twenty-one years of age may possess, manufacture, sell, or distribute marijuana, marijuana-infused products, or marijuana concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

~~((6))~~ (7) The possession by a qualifying patient or designated provider of marijuana concentrates, useable marijuana, marijuana-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. 10. 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 knowing possession of forty grams or less of marijuana is guilty of a misdemeanor. The prosecutor is encouraged to divert cases under this section for assessment, treatment, or other services.

Sec. 11. RCW 69.41.030 and 2019 c 55 s 9 are each amended to read as follows:

(1) It shall be unlawful for any person to sell, deliver, or knowingly possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, a licensed osteopathic physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

Sec. 12. RCW 69.41.030 and 2020 c 80 s 41 are each amended to read as follows:

(1) It shall be unlawful for any person to sell, deliver, or knowingly possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

NEW SECTION. Sec. 13. A new section is added to chapter 10.31 RCW to read as follows:

(1) For all individuals who otherwise would be subject to arrest for possession of a counterfeit substance under RCW 69.50.4011, possession of a controlled substance under RCW 69.50.4013, possession of 40 grams or less of marijuana under RCW 69.50.4014, or possession of a legend drug under RCW 69.41.030(2)(b), in lieu of jail booking and referral to the prosecutor, law enforcement shall offer a referral to assessment and services available pursuant to RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include the recovery navigator program established under section 2 of this act.

(2) If law enforcement agency records reflect that an individual has been diverted to referral for assessment and services twice or more previously, officers may, but are not required to, make additional diversion efforts.

(3) Nothing in this section precludes prosecutors from diverting or declining to file any charges for possession offenses that are referred under RCW 69.50.4011, 69.50.4013, 69.50.4014, or 69.41.030(2)(b) in the exercise of their discretion.

Sec. 14. RCW 69.50.412 and 2019 c 64 s 22 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 (~~(, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body))~~) a controlled substance other than marijuana. 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 (~~(, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body))~~) a controlled substance other than marijuana. 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. 15. 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
- 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(~~(;)~~) or deliver(~~(; or possess)~~) 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))
- 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, 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 (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. 16. 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
Arson and Malicious Mischief		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+
Assault and Other Crimes Involving Physical Harm		
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045) committed at age 15 or under	C+
A++	Drive-By Shooting (9A.36.045) committed at age 16 or 17	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+
	Burglary and Trespass	
B+	Burglary 1 (9A.52.020) committed at age 15 or under	C+
A-	Burglary 1 (9A.52.020) committed at age 16 or 17	B+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E
	Drugs	
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Marihuana <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E

B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
((€)) <u>E</u>	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	((€)) <u>E</u>
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
Firearms and Weapons		
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
Homicide		
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+
Kidnapping		
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
Obstructing Governmental Operation		
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+

Public Disturbance

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

Sex Crimes

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+
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

Theft, Robbery, Extortion, and Forgery

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

Motor Vehicle Related Crimes

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
Other		
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1 ¹ (9A.76.110)	C
C	Escape 2 ¹ (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) ²	V

¹Escape 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

²If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

OPTION A

JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE

	A	129 to 260 weeks for all category A++ offenses				
	+					
	+					
	A	180 weeks to age 21 for all category A+ offenses				
	+					
	A	103-129 weeks for all category A offenses				
	A	30-40	52-65	80-100	103-129	103-129
	-	weeks	weeks	weeks	weeks	weeks
	B	15-36	52-65	80-100	103-129	103-129
	+	weeks	weeks	weeks	weeks	weeks
	+					
	B	15-36	15-36	52-65	80-100	103-129
	+	weeks	weeks	weeks	weeks	weeks
CURRENT	B	LS	LS	15-36	15-36	52-65
OFFENSE				weeks	weeks	weeks
CATEGORY	C	LS	LS	LS	15-36	15-36
	+				weeks	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		0	1	2	3	4 or more
ADJUDICATIONS						

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. 17. RCW 2.24.010 and 2013 c 27 s 3 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, 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. 18. RCW 2.24.040 and 2009 c 28 s 1 are each amended to read as follows:

Such court commissioner shall have power, authority, and jurisdiction, concurrent with the superior court and the judge thereof, in the following particulars:

(1) To hear and determine all matters in probate, to make and issue all proper orders therein, and to issue citations in all cases where same are authorized by the probate statutes of this state.

(2) To grant and enter defaults and enter judgment thereon.

(3) To issue temporary restraining orders and temporary injunctions, and to fix and approve bonds thereon.

(4) To act as referee in all matters and actions referred to him or her by the superior court as such, with all the powers now conferred upon referees by law.

(5) To hear and determine all proceedings supplemental to execution, with all the powers conferred upon the judge of the superior court in such matters.

(6) To hear and determine all petitions for the adoption of children and for the dissolution of incorporations.

(7) To hear and determine all applications for the commitment of any person to the hospital for the insane, with all the powers of the superior court in such matters: PROVIDED, That in cases where a jury is demanded, same shall be referred to the superior court for trial.

(8) To hear and determine all complaints for the commitments of minors with all powers conferred upon the superior court in such matters.

(9) To hear and determine ex parte and uncontested civil matters of any nature.

(10) To grant adjournments, administer oaths, preserve order, compel attendance of witnesses, and to punish for contempts in the refusal to obey or the neglect of the court commissioner's lawful orders made in any matter before the court commissioner as fully as the judge of the superior court.

(11) To take acknowledgments and proofs of deeds, mortgages and all other instruments requiring acknowledgment under the laws of this state, and to take affidavits and depositions in all cases.

(12) To provide an official seal, upon which shall be engraved the words "Court Commissioner," and the name of the county for which he or she may be appointed, and to authenticate his official acts therewith in all cases where same is necessary.

(13) To charge and collect, for his or her own use, the same fees for the official performance of official acts mentioned in subsections (4) and (11) of this section as are provided by law for referees and notaries public.

(14) To hear and determine small claims appeals as provided in chapter 12.36 RCW.

(15) 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; ~~(and)~~ accept waivers of the right to speedy trial; and conduct resentencing hearings and hearings to vacate convictions related to *State v. Blake*, No. 96873-0 (Feb. 25, 2021).

Sec. 19. RCW 9.94A.728 and 2018 c 166 s 2 are each amended to read as follows:

(1) No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(a) An offender may earn early release time as authorized by RCW 9.94A.729;

(b) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(c)(i) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(A) The offender has a medical condition that is serious and is expected to require costly care or treatment;

(B) The offender poses a low risk to the community because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so at the time of release; and

(C) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

(ii) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(iii) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(iv) The secretary may revoke an extraordinary medical placement under this subsection (1)(c) at any time.

(v) Persistent offenders are not eligible for extraordinary medical placement;

(d) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(e) No more than the final twelve months of the offender's term of confinement may be served in partial confinement for aiding the offender with: Finding work as part of the work release program under chapter 72.65 RCW; or reestablishing himself or herself in the community as part of the parenting program in RCW 9.94A.6551. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

(f) No more than the final six months of the offender's term of confinement may be served in partial confinement as home detention as part of the graduated reentry program developed by the department under RCW 9.94A.733;

(g) The governor may pardon any offender;

(h) The department may release an offender from confinement any time within ten days before a release date calculated under this section;

(i) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870;

(j) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540; and

(k) Any person convicted of one or more crimes committed prior to the person's eighteenth birthday may be released from confinement pursuant to RCW 9.94A.730.

(2) Notwithstanding any other provision of this section, an offender entitled to vacation of a conviction or the recalculation of his or her offender score pursuant to *State v. Blake*, No. 96873-0 (Feb. 25, 2021), may be released from confinement pursuant to a court order if the offender has already served a period of confinement that exceeds his or her new standard range. This provision does not create an independent right to release from confinement prior to resentencing.

(3) Offenders residing in a juvenile correctional facility placement pursuant to RCW 72.01.410(1)(a) are not subject to the limitations in this section.

Sec. 20. RCW 10.64.110 and 1977 ex.s. c 259 s 1 are each amended to read as follows:

(1) Following June 15, 1977, except as provided in subsection (3) of this section, there shall be affixed to the original of every judgment and sentence of a felony conviction in every court in this state and every order adjudicating a juvenile to be a delinquent based upon conduct which would be a felony if committed by an adult, a fingerprint of the defendant or juvenile who is the subject of the order. When requested by the clerk of the court, the actual affixing of fingerprints shall be done by a representative of the office of the county sheriff.

(2) The clerk of the court shall attest that the fingerprints appearing on the judgment in sentence, order of adjudication of delinquency, or docket, is that of the individual who is the subject of the judgment or conviction, order, or docket entry.

(3) Amended judgment and sentences issued pursuant to *State v. Blake*, No. 96873-0 (Feb. 25, 2021), are exempt from the fingerprinting requirements in subsection (1) of this section when there are no additional offenses of conviction from the original judgment and sentence and the defendant is in custody in a correctional facility. In such cases, the amended judgment and sentence shall reference the original judgment and sentence and the fingerprints affixed thereto.

***NEW SECTION. Sec. 21.** *The *State v. Blake* reimbursement 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 for state and local government costs resulting from the supreme court's decision in *State v. Blake*, No. 96873-0 (Feb. 25, 2021), and to reimburse individuals for legal financial obligations paid in connection with sentences that have been invalidated as a result of the decision.*

**Sec. 21 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 22. The appropriations in this section are provided to the health care authority community behavioral health program and are subject to the following conditions and limitations:

(1) The following sums, or so much thereof as may be necessary, are each appropriated: \$25,000,000 from the state general fund for the fiscal year ending June 30, 2022; and \$20,000,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely for the authority to contract with behavioral health administrative service organizations to implement the statewide recovery navigator program established in section 2 of this act and for related technical assistance to support this implementation. This includes funding for recovery navigator teams to provide community-based outreach and case management services based on the law enforcement assisted diversion model and for technical assistance support from the law enforcement assisted diversion national support bureau.

(2) The following sums, or so much thereof as may be necessary, are each appropriated: \$1,673,000 from the state general fund for the fiscal year ending June 30, 2022; \$3,114,000 from the state general fund for the fiscal year ending June 30, 2023; and \$3,890,000, from the general fund-federal account for the fiscal biennium ending June 30, 2023. The amounts in this subsection are provided solely for the authority to implement clubhouse services in every region of the state.

(3) The following sums, or so much thereof as may be necessary, are each appropriated: \$5,000,000 from the state general fund for the fiscal year ending June 30, 2022; and \$7,500,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely for the authority to implement the homeless outreach stabilization team program, pursuant to section 5(1) of this act.

(4) The following sums, or so much thereof as may be necessary, are each appropriated: \$2,500,000 from the state general fund for the fiscal year ending June 30, 2022; and \$2,500,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely for the authority to expand efforts to provide opioid use disorder medication in city, county, regional, and tribal jails.

(5) The following sums, or so much thereof as may be necessary, are each appropriated: \$500,000 from the state general fund for the fiscal year ending June 30, 2022; and \$500,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely for the authority to expand opioid treatment network programs for people with co-occurring opioid and stimulant use disorder.

(6) The following sums, or so much thereof as may be necessary, are each appropriated: \$1,400,000 from the state general fund for the fiscal year ending June 30, 2022; and \$1,400,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely for behavioral health administrative service organizations to develop regional recovery navigator program plans pursuant to section 2 of this act and to establish positions focusing on regional planning to improve access to and quality of regional behavioral health services with a focus on integrated care.

(7) The following sums, or so much thereof as may be necessary, are each appropriated: \$75,000 from the state general fund for the fiscal year ending June 30, 2022; and \$75,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely for the authority to contract with an organization with expertise in supporting efforts to increase access to and improve quality in recovery housing and recovery residences. This funding shall be used to increase recovery housing availability through partnership with private landlords, increase accreditation of recovery residences statewide, operate a grievance process for resolving challenges with recovery residences, and conduct a recovery capital outcomes assessment for individuals living in recovery residences.

(8) The following sums, or so much thereof as may be necessary, are each appropriated: \$500,000 from the state general fund for the fiscal year ending June 30, 2022; and \$500,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely for the authority to provide short-term housing vouchers for individuals with substance use disorders.

(9) The following sums, or so much thereof as may be necessary, are each appropriated: \$250,000 from the state general fund for the fiscal year ending June 30, 2022; and \$250,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely for the authority to issue grants for substance use disorder family navigator services.

(10) The following sums, or so much thereof as may be necessary, are each appropriated: \$200,000 from the state general fund for the fiscal year ending June 30, 2022; and \$200,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely for the authority to convene and provide staff and contracted services support to the recovery oversight committee established in section 1 of this act.

(11) The following sums, or so much thereof as may be necessary, are each appropriated: \$2,565,000 from the state general fund for the fiscal year ending June 30, 2022; and \$2,565,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely for staff and contracted services support for the authority to develop and implement the recovery services plan established in section 1 of this act and to carry out other requirements of this act. Within these amounts, funding is provided for the authority to:

(a) Establish an occupational nurse consultant position within the authority to provide contract oversight, accountability, performance improvement activities, and to ensure medicaid managed care organization plan compliance with provisions in law and contract related to care transitions work with local jails.

(b) Establish a position within the authority to create and oversee a program to initiate and support emergency department programs for inducing medications for patients with opioid use disorder paired with a referral to community-based outreach and case management programs.

NEW SECTION. Sec. 23. The appropriation in this section is provided to the administrative office of the courts and is subject to the following conditions and limitations:

The following sums, or so much thereof as may be necessary, are each appropriated: \$2,250,000 from the state general fund for the fiscal year ending June 30, 2022; and \$2,250,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely to fund grants for therapeutic courts operated by municipalities and district courts. The administrative office of the courts must allocate grant funding based upon a formula established by the administrative office of the courts. The formula must distribute the grant funding equitably between those therapeutic courts located east of the crest of the Cascade mountains and those therapeutic courts located west of the crest of the Cascade mountains. Multiple jurisdictions served by a single municipal court or district court may apply for funds as a single entity. Local jurisdictions receiving grant funding for therapeutic courts must use funding to identify individuals before the courts with substance use disorders or other behavioral health needs and engage those individuals with community-based therapeutic interventions.

NEW SECTION. Sec. 24. The appropriation in this section is provided to the department of commerce and is subject to the following conditions and limitations:

The following sums, or so much thereof as may be necessary, are each appropriated: \$500,000 from the state general fund for the fiscal year ending June 30, 2022; and \$1,000,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely for the department to provide grants for the operational costs of new staffed recovery residences which serve individuals with substance use disorders who require more support than a level 1 recovery residence.

NEW SECTION. Sec. 25. The appropriation in this section is provided to the criminal justice training commission and is subject to the following conditions and limitations:

The following sums, or so much thereof as may be necessary, are each appropriated: \$150,000 from the state general fund for the fiscal year ending June 30, 2022; and \$150,000 from the state general fund for the fiscal year ending June 30, 2023. The amounts in this subsection are provided solely for the commission to compensate trainer time to deliver the curriculum related to law enforcement interactions with persons with a substance use disorder pursuant to section 7 of this act.

NEW SECTION. Sec. 26. Sections 1 through 11 and 13 through 21 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 27. Section 11 of this act expires July 1, 2022.

NEW SECTION. Sec. 28. Section 12 of this act takes effect July 1, 2022.

NEW SECTION. Sec. 29. Sections 8 through 10, 12, 15, and 16 of this act expire July 1, 2023.

NEW SECTION. Sec. 30. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate April 24, 2021.

Passed by the House April 24, 2021.

Approved by the Governor May 13, 2021, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 21, Engrossed Senate Bill No. 5476 entitled:

"AN ACT Relating to addressing the State v. Blake decision."

The bill creates a new account that will not be used, therefore it is unnecessary.

For these reasons I have vetoed Section 21 of Engrossed Senate Bill No. 5476.

With the exception of Section 21, Engrossed Senate Bill No. 5476 is approved."

CHAPTER 312

[Second Substitute Senate Bill 5368]

GROWTH MANAGEMENT ACT—RURAL ECONOMIC DEVELOPMENT

AN ACT Relating to encouraging rural economic development; amending RCW 36.70A.330 and 43.155.070; adding a new section to chapter 35A.14 RCW; adding a new section to chapter 36.70A RCW; adding a new section to chapter 43.160 RCW; adding a new section to chapter 80.36 RCW; and adding a new section to chapter 43.330 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 35A.14 RCW to read as follows:

(1) A code city as provided in RCW 35A.14.296(2) may collaborate with the county or counties where the code city is located to form an interlocal agreement regarding annexation of unincorporated territory within the urban growth area boundary. The interlocal agreement formation process must include procedures for public participation. The procedures must provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, and consideration of and response to public comments. The interlocal agreement may only be executed after notice of availability of the agreement is posted on the website of each legislative body for four weeks and a public hearing by each legislative body, separately or jointly. This method of annexation shall be an alternative method and is additional to all other methods provided for in this chapter.

(2) An interlocal agreement under this section may include use of a sales tax credit for annexed areas should such a credit be reinstated by the legislature.

(3) The agreement or plan under this section must address the following:

(a) A balancing of annexations of commercial, industrial, and residential properties so that any potential loss or gain is considered and distributed fairly as determined by tax revenue;

(b) Development, ownership, and maintenance of infrastructure;

(c) The potential for revenue-sharing agreements.

(4) In addressing the items in subsection (3)(a) through (c) of this section, the parties must also address the balancing of factors and objectives for annexation review in RCW 36.93.170 and 36.93.180.

(5) By December 1, 2021, the association of Washington cities and the Washington state association of counties shall report to the legislature, in compliance with RCW 43.01.036, on how a sales tax credit may be utilized to encourage appropriate annexations and what limits should be associated with such a credit if reinstated.

Sec. 2. RCW 36.70A.330 and 1997 c 429 s 21 are each amended to read as follows:

(1) After the time set for complying with the requirements of this chapter under RCW 36.70A.300(3)(b) has expired, or at an earlier time upon the motion of a county or city subject to a determination of invalidity under RCW 36.70A.300, the board shall set a hearing for the purpose of determining whether the state agency, county, or city is in compliance with the requirements of this chapter.

(2) The board shall conduct a hearing and issue a finding of compliance or noncompliance with the requirements of this chapter and with any compliance schedule established by the board in its final order. A person with standing to challenge the legislation enacted in response to the board's final order may participate in the hearing along with the petitioner and the state agency, county, or city. A hearing under this subsection shall be given the highest priority of business to be conducted by the board, and a finding shall be issued within forty-five days of the filing of the motion under subsection (1) of this section with the board. The board shall issue any order necessary to make adjustments to the compliance schedule and set additional hearings as provided in subsection (5) of this section.

(3) If the board after a compliance hearing finds that the state agency, county, or city is not in compliance, the board shall transmit its finding to the governor. ~~((The))~~

(a) The board may refer a finding of noncompliance to the department. The purpose of the referral is for the department to provide technical assistance to facilitate speedy resolution of the finding of noncompliance and to provide training pursuant to section 3 of this act as necessary.

(b) Alternatively, the board may recommend to the governor that the sanctions authorized by this chapter be imposed. The board shall take into consideration the county's or city's efforts to meet its compliance schedule in making the decision to recommend sanctions to the governor.

(4) In a compliance hearing upon petition of a party, the board shall also reconsider its final order and decide, if no determination of invalidity has been made, whether one now should be made under RCW 36.70A.302.

(5) The board shall schedule additional hearings as appropriate pursuant to subsections (1) and (2) of this section.

NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A RCW to read as follows:

(1) The department shall offer training to assist local governments in understanding findings of noncompliance from the growth management hearings board pursuant to RCW 36.70A.300 and 36.70A.330 and applying prior decisions of the board to ongoing planning efforts to avoid findings of noncompliance.

(2) The department may award grants to a public agency with appropriate expertise and funded by local governments to provide the training required in subsection (1) of this section.

(3) The training provided in subsection (1) of this section is limited to counties that are largely rural.

*Sec. 4. RCW 43.155.070 and 2017 3rd sp.s. c 10 s 9 are each amended to read as follows:

(1) To qualify for financial assistance under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, and except as provided in subsection (12) of this section, a county, city, or town planning under RCW 36.70A.040 may not receive financial assistance under this chapter unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving financial assistance under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 may apply for and receive financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before executing a contractual agreement for financial assistance with the board.

(3) In considering awarding financial assistance for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board must consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4)(a) The board must develop a process to prioritize applications and funding of loans and grants for public works projects submitted by local governments. The board must consider, at a minimum and in any order, the following factors in prioritizing projects:

(i) Whether the project is critical in nature and would affect the health and safety of many people;

(ii) The extent to which the project leverages other funds;

(iii) The extent to which the project is ready to proceed to construction;

(iv) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(v) Whether the project promotes the sustainable use of resources and environmental quality, as applicable;

(vi) Whether the project consolidates or regionalizes systems;

(vii) Whether the project encourages economic development through mixed-use and mixed income development consistent with chapter 36.70A RCW;

(viii) Whether the system is being well-managed in the present and for long-term sustainability;

(ix) Achieving equitable distribution of funds by geography and population;

(x) The extent to which the project meets the following state policy objectives:

(A) Efficient use of state resources;

(B) Preservation and enhancement of health and safety;

(C) Abatement of pollution and protection of the environment;

(D) Creation of new, family-wage jobs, and avoidance of shifting existing jobs from one Washington state community to another;

(E) Fostering economic development consistent with chapter 36.70A RCW;

(F) Efficiency in delivery of goods and services and transportation; and

(G) Reduction of the overall cost of public infrastructure;

(xi) Whether the applicant sought or is seeking funding for the project from other sources; and

(xii) Other criteria that the board considers necessary to achieve the purposes of this chapter.

(b) Before September 1, 2018, and each year thereafter, the board must develop and submit a report regarding the construction loans and grants to the office of financial management and appropriate fiscal committees of the senate and house of representatives. The report must include:

(i) The total number of applications and amount of funding requested for public works projects;

(ii) A list and description of projects approved in the preceding fiscal year with project scores against the board's prioritization criteria;

(iii) The total amount of loan and grants disbursements made from the public works assistance account in the preceding fiscal year;

(iv) The total amount of loan repayments in the preceding fiscal year for outstanding loans from the public works assistance account;

(v) The total amount of loan repayments due for outstanding loans for each fiscal year over the following ten-year period; and

(vi) The total amount of funds obligated and timing of when the funds were obligated in the preceding fiscal year.

(c) The maximum amount of funding that the board may provide for any jurisdiction is ten million dollars per biennium.

(5) Existing debt or financial obligations of local governments may not be refinanced under this chapter. Each local government applicant must provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) *Before September 1st of each year, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans and grants made under RCW 43.155.065 and 43.155.068.*

(7) *The board may not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds to the board for the purpose of funding public works projects under this chapter.*

(8) *To qualify for loans, grants, or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.*

(9) *After January 1, 2010, any project designed to address the effects of stormwater or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.*

(10) *For projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade efficiency audit is reasonably obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its public works assistance account program loan or grant.*

(11) *The board must implement policies and procedures designed to maximize local government consideration of other funds to finance local infrastructure.*

(12) The provisions in subsection (2) of this section do not apply to a county, city, or town applying for grants and loans under this chapter for projects that support broadband services where such grants and loans will assist the county, city, or town with economic development, disaster resiliency and response, adaptation to public health emergencies such as pandemics, and emergency management.

**Sec. 4 was vetoed. See message at end of chapter.*

**NEW SECTION. Sec. 5. A new section is added to chapter 43.160 RCW to read as follows:*

The board is prohibited from considering whether a county, city, or town is compliant with chapter 36.70A RCW when considering applications for broadband funding.

**Sec. 5 was vetoed. See message at end of chapter.*

**NEW SECTION. Sec. 6. A new section is added to chapter 80.36 RCW to read as follows:*

The commission is prohibited from considering whether a county, city, or town is compliant with chapter 36.70A RCW when considering applications for broadband funding.

**Sec. 6 was vetoed. See message at end of chapter.*

**NEW SECTION. Sec. 7. A new section is added to chapter 43.330 RCW to read as follows:*

The department is prohibited from considering whether a county, city, or town is compliant with chapter 36.70A RCW when considering applications for broadband funding.

**Sec. 7 was vetoed. See message at end of chapter.*

Passed by the Senate April 19, 2021.

Passed by the House April 11, 2021.

Approved by the Governor May 13, 2021, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 4, 5, 6, and 7, Second Substitute Senate Bill No. 5368 entitled:

"AN ACT Relating to encouraging rural economic development."

Section 4 of this bill would allow the Public Works Board (Board) to award funding for broadband infrastructure to cities, towns, and counties found to be in noncompliance with the growth management act (GMA). Current law prohibits any funding distributed by the Board to go to a GMA noncompliant jurisdiction unless that funding is necessary to address a public health need or substantial environmental degradation. The new exception provided here does not rise to the same level of urgency established in current law. In addition, an underpinning of the GMA has been that GMA noncompliant jurisdictions are unable to access various forms of infrastructure funding. Broadband is critical infrastructure comparable to roads, bridges, and water systems, and should be treated the same before the Board.

Section 5 prohibits the Community Economic Revitalization Board (CERB) from considering compliance with the GMA as a factor in awarding broadband funding to counties, cities, and towns. CERB does not currently consider the GMA in making funding decisions. This new prohibition is unnecessary.

Section 6 prohibits the Utilities and Transportation Commission (UTC) from considering compliance with the GMA as a factor in awarding broadband funding to counties, cities, and towns. The only funding that the UTC distributes for broadband is the Universal Service Fund (USF). Local governments are not eligible applicants to that program. The USF awards subsidies to small, private telecommunications providers. This new prohibition is also unnecessary.

Section 7 prohibits the Department of Commerce from considering compliance with the GMA as a factor in awarding broadband funding to counties, cities, and towns. Commerce is not currently bound to any consideration of GMA compliance in its decision-making regarding broadband projects. The agency has appropriate autonomy to consider the individual merits and relative benefits of each application for broadband funding. Retaining a high-level of discretion within the agency is desirable to ensure the best and highest use of scarce resources.

For these reasons I have vetoed Sections 4, 5, 6, and 7 of Second Substitute Senate Bill No. 5368.

With the exception of Sections 4, 5, 6, and 7, Second Substitute Senate Bill No. 5368 is approved."

CHAPTER 313

[Engrossed Second Substitute Senate Bill 5022]

RECYCLING AND WASTE AND LITTER REDUCTION—VARIOUS PROVISIONS

AN ACT Relating to managing solid waste through prohibitions on expanded polystyrene, providing for food serviceware upon customer request, and addressing plastic packaging; amending RCW 43.21B.300 and 70A.220.020; reenacting and amending RCW 43.21B.110; adding a new section to chapter 39.26 RCW; adding a new chapter to Title 70A RCW; creating a new section; prescribing penalties; and providing expiration dates.

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

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

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

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

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

(a) Water and flavored water;

(b) Beer or other malt beverages;

(c) Wine;

(d) Distilled spirits;

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

(f) Any beverage other than those specified in (a) through (e) of this subsection, except infant formula as defined in 21 U.S.C. Sec. 321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or fortified oral nutritional supplements used for persons who require supplemental or sole source nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, or other medical conditions as determined by the department.

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

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

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

(i) Plastic trash bags;

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

(iii) Beverages that use plastic beverage containers.

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

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

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

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

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

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

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

- (a) Laundry detergents, softeners, and stain removers;
- (b) Household cleaning products;
- (c) Liquid soap;
- (d) Shampoo, conditioner, styling sprays and gels, and other hair care products; or
- (e) Lotion, moisturizer, facial toner, and other skin care products.

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

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

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

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

- (a) Refillable beverage containers, such as containers that are sufficiently durable for multiple rotations of their original or similar purpose and are intended to function in a system of reuse;
- (b) Rigid plastic containers or plastic bottles that are or are used for medical devices, medical products that are required to be sterile, nonprescription and prescription drugs, or dietary supplements as defined in RCW 82.08.0293;
- (c) Bladders or pouches that contain wine; or
- (d) Liners, caps, corks, closures, labels, and other items added externally or internally but otherwise separate from the structure of the bottle or container.

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

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

- (ii) A maximum capacity of five fluid gallons or its equivalent volume;
- (iii) That is capable of maintaining its shape when empty;
- (iv) Comprised solely of one or multiple plastic resins; and
- (v) Containing a household cleaning or personal care product.

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

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

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

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

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

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

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

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

(ii) If the covered product is manufactured by a person other than the brand owner, the producer is the person who is the licensee of a brand or trademark under which a covered product is sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state, unless the manufacturer or brand owner of the covered product has agreed to accept responsibility under this chapter; or

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

(b) "Producer" does not include:

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

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

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

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

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

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

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

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

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

NEW SECTION. Sec. 3. POSTCONSUMER RECYCLED CONTENT.

(1)(a) Beginning January 1, 2023, producers that offer for sale, sell, or distribute in or into Washington:

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

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

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

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

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

(b) The registration information submitted to the department under this section must include a list of the producers of covered products and the brand names of the covered products represented in the registration submittal. Beginning April 1, 2024, for plastic trash bags and plastic beverage containers other than wine in 187 milliliter plastic beverage containers and dairy milk in plastic beverage containers, April 1, 2026, for plastic household and personal care product containers, and April 1, 2029, for wine in 187 milliliter plastic beverage containers and dairy milk, a producer may submit registration

information at the same time as the information submitted through the annual reporting required under section 4 of this act.

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

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

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

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

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

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

(b) The department must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Recycling rates;

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

(iv) The capacity of recycling or processing infrastructure;

(v) The technical feasibility of achieving the minimum postconsumer recycled content requirements in covered products that are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec. 136, 15 U.S.C. Sec. 1471-1477, 49

C.F.R. Sec. 178.33b, 49 C.F.R. Sec. 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R. Sec. 178.600-609, and other federal laws; and

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

(c) Under (a) of this subsection:

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Sec. 4. PRODUCER REPORTING REQUIREMENTS.

(1)(a) Except as provided in (b) and (c) of this subsection, beginning April 1, 2024, each producer of covered products, individually or through a third party representing a group of producers, must provide an annual report to the department that includes the amount in pounds of virgin plastic and the amount in pounds of postconsumer recycled content by resin type used for each category of covered products that are sold, offered for sale, or distributed in or into Washington state, including the total postconsumer recycled content resins as a percentage of total weight. The report must be submitted in a format and manner prescribed by the department. A manufacturer may submit national data allocated on a per capita basis for Washington to approximate the information required in this subsection if the producer or third-party representative demonstrates to the department that state level data are not available or feasible to generate.

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

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

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

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

NEW SECTION. Sec. 5. PENALTIES FOR POSTCONSUMER RECYCLED CONTENT REQUIREMENTS.

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

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

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

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

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

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

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

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

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

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

(A) Anomalous market conditions;

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

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

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

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

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

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

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

NEW SECTION. Sec. 6. PENALTIES FOR REGISTRATION, LABELING, AND REPORTING. (1) For producers out of compliance with the

registration, reporting, or labeling requirements of section 3, 4, or 7 of this act, the department shall provide written notification and offer information to producers. For the purposes of this section, written notification serves as notice of the violation. The department must issue at least two notices of violation by certified mail prior to assessing a penalty under subsection (2) of this section.

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

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

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

NEW SECTION. Sec. 7. TRASH BAG LABELING REQUIREMENTS.

(1) Beginning January 1, 2023, producers shall label each package containing plastic trash bags sold, offered for sale, or distributed in or into Washington with:

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

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

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

(b) For the purposes of this subsection:

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

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

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

POSTCONSUMER RECYCLED CONTENT IN PLASTIC TRASH BAGS—PURCHASING PRIORITY.

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

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

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

residential curbside recycling programs. The recommendations may include rates of mandatory postconsumer recycled content required by material type, target implementation dates, and potential exemptions or alternate compliance pathways for some materials.

(b) The facilitator must:

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

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

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

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

(a) Impartiality regarding policy outcomes;

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

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

(3) By December 1, 2021, the facilitator shall submit a report to the legislature containing the recommendations of the stakeholder advisory committee after review and approval by the facilitator and committee. The stakeholder advisory committee shall make recommendations using consensus-based decision making. The report must include recommendations where general stakeholder consensus has been achieved and note dissenting opinions where stakeholder consensus has not been achieved.

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

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

(a) The department of commerce;

(b) The department of ecology;

(c) The utilities and transportation commission;

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

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

(f) Municipal collectors;

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

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

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

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

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

(l) Recycled plastic feedstock users;

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

(n) A recycled content certification organization;

(o) An environmental justice organization;

(p) An environmental nonprofit organization;

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

(r) Plastic converters/manufacturers of resins;

(s) A manufacturer of plastic packaging;

(t) A statewide general business trade association;

(u) Associations that represent consumer brand companies;

(v) Representatives of consumer brands;

(w) A consumer-oriented organization;

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

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

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

(aa) An association that represents cities;

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

(cc) A representative from a retail grocery association;

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

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

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

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

(7) This section expires January 1, 2022.

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

(i) A portable container that is designed or intended to be used for cold storage, except for expanded polystyrene containers used for drugs, medical devices, and biological materials as defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or shipping perishable commodities from a wholesale or retail establishment; and

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

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

(2)(a) The department must provide technical assistance and guidance to manufacturers of prohibited expanded polystyrene products, upon request. For manufacturers out of compliance with the requirements of this section, the

department shall provide written notification and offer information to manufacturers that sell prohibited expanded polystyrene products who are in violation of this section. For the purposes of this section, written notification serves as notice of the violation. The department must issue at least two notices of violation by certified mail prior to assessing a penalty.

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

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

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

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

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

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

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

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

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

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

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

(i) Utensils;

(ii) Straws;

(iii) Condiment packaging; and

(iv) Beverage cup lids.

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

(i) Hot beverages;

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

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

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

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

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

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

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

(v) State hospitals as defined in RCW 72.23.010.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) This section expires July 1, 2029.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70A.15.3160, the disposition of which shall be governed by that provision, sections 5 and 6 of this act, which shall be credited to the recycling enhancement account created in section 13 of this act, RCW 70A.300.090, which shall be credited to the model toxics control operating account created in RCW 70A.305.180, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 70A.355.070, which shall be credited to the underground storage tank account created by RCW 70A.355.090.

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

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

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

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

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

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

Passed by the Senate April 19, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 17, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 314

[Engrossed Second Substitute Senate Bill 5141]

ENVIRONMENTAL JUSTICE—VARIOUS PROVISIONS

AN ACT Relating to reducing environmental and health disparities and improving the health of all Washington state residents by implementing the recommendations of the environmental justice task force; amending RCW 43.376.020 and 34.05.030; adding new sections to chapter 43.70 RCW; adding a new section to chapter 43.21A RCW; adding a new section to chapter 43.23 RCW; adding a new section to chapter 43.30 RCW; adding a new section to chapter 43.330 RCW; adding a new section to chapter 47.01 RCW; adding a new section to chapter 90.71 RCW; adding a new chapter to Title 70A RCW; and creating a new section.

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

NEW SECTION. Sec. 1. FINDINGS AND INTENT. (1) The purpose of this chapter is to reduce environmental and health disparities in Washington state and improve the health of all Washington state residents. This chapter implements the recommendations of the environmental justice task force established in section 221(48), chapter 415, Laws of 2019 entitled "Report to the Washington state governor and legislature, *Environmental Justice Task Force: Recommendations for Prioritizing EJ in Washington State Government* (October 2020)."

(2) As conveyed in the task force report, Washington state studies and national studies found that people of color and low-income people continue to be disproportionately exposed to environmental harms in their communities. As a result, there is a higher risk of adverse health outcomes for those communities. This risk is amplified when overlaid on communities with preexisting social and economic barriers and environmental risks, and creates cumulative environmental health impacts, which this act seeks to prevent and mitigate.

This chapter also seeks to reduce exposure to environmental hazards within Indian country, as defined in 18 U.S.C. Sec. 1151, due to off-reservation activities within the state, and to improve state practices to reduce contamination of traditional foods wherever they occur. Exposure to such hazards can result in generational health and ecological problems, particularly on small reservations where it is impossible to move away from a hazard.

(3) Accordingly, the state has a compelling interest in preventing and addressing such environmental health disparities in the administration of ongoing and new environmental programs, including allocation of funds, and in administering these programs so as to remedy the effects of past disparate treatment of overburdened communities and vulnerable populations.

(4) The task force provided recommendations to state agencies for measurable goals and model policies to reduce environmental health inequities in Washington, equitable practices for meaningful community involvement, and how to use the environmental health disparities map to identify and promote the equitable distribution of environmental benefits to overburdened communities. In order for all communities in Washington state to be healthy and thriving, state government should aim to concentrate government actions to benefit communities that currently have the greatest environmental and health burdens.

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

(1) "Council" means the environmental justice council established in section 20 of this act.

(2) "Covered agency" means the departments of ecology, health, natural resources, commerce, agriculture, and transportation, the Puget Sound partnership, and any agency that opts to assume all of the obligations of this act pursuant to section 11 of this act.

(3) "Cumulative environmental health impact" means the combined, multiple environmental impacts and health impacts on a vulnerable population or overburdened community.

(4) "Environmental benefits" means activities that:

(a) Prevent or reduce existing environmental harms or associated risks that contribute significantly to cumulative environmental health impacts;

(b) Prevent or mitigate impacts to overburdened communities or vulnerable populations from, or support community response to, the impacts of environmental harm; or

(c) Meet a community need formally identified to a covered agency by an overburdened community or vulnerable population that is consistent with the intent of this chapter.

(5) "Environmental harm" means the individual or cumulative environmental health impacts and risks to communities caused by historic, current, or projected:

(a) Exposure to pollution, conventional or toxic pollutants, environmental hazards, or other contamination in the air, water, and land;

(b) Adverse environmental effects, including exposure to contamination, hazardous substances, or pollution that increase the risk of adverse environmental health outcomes or create vulnerabilities to the impacts of climate change;

(c) Loss or impairment of ecosystem functions or traditional food resources or loss of access to gather cultural resources or harvest traditional foods; or

(d) Health and economic impacts from climate change.

(6) "Environmental health disparities map" means the data and information developed pursuant to section 19 of this act.

(7) "Environmental impacts" means environmental benefits or environmental harms, or the combination of environmental benefits and harms, resulting or expected to result from a proposed action.

(8) "Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, rules, and policies. Environmental justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities, the equitable distribution of resources and benefits, and eliminating harm.

(9) "Equitable distribution" means a fair and just, but not necessarily equal, allocation intended to mitigate disparities in benefits and burdens that are based on current conditions, including existing legacy and cumulative impacts, that are informed by cumulative environmental health impact analysis.

(10) "Evidence-based" means a process that is conducted by a systematic review of available data based on a well-established and widely used hierarchy of data in current use by other state and national programs, selected by the

departments of ecology and health. The environmental justice council may provide input on the development of the process.

(11) "Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020.

(12) "Significant agency action" means the following actions as identified at the beginning of a covered agency's consideration of the significant agency action or at the time when an environmental justice assessment would normally be initiated in conjunction with an agency action:

(a) The development and adoption of significant legislative rules as defined in RCW 34.05.328;

(b) The development and adoption of any new grant or loan program that a covered agency is explicitly authorized or required by statute to carry out;

(c) A capital project, grant, or loan award by a covered agency of at least \$12,000,000 or a transportation project, grant, or loan by a covered agency of at least \$15,000,000;

(d) The submission of agency request legislation to the office of the governor or the office of financial management for approval; and

(e) Any other agency actions deemed significant by a covered agency consistent with section 14 of this act.

(13) "Tribal lands" has the same meaning as "Indian country" as provided in 18 U.S.C. Sec. 1151, and also includes sacred sites, traditional cultural properties, burial grounds, and other tribal sites protected by federal or state law.

(14)(a) "Vulnerable populations" means population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: (i) Adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and (ii) sensitivity factors, such as low birth weight and higher rates of hospitalization.

(b) "Vulnerable populations" includes, but is not limited to:

(i) Racial or ethnic minorities;

(ii) Low-income populations;

(iii) Populations disproportionately impacted by environmental harms; and

(iv) Populations of workers experiencing environmental harms.

NEW SECTION. Sec. 3. ENVIRONMENTAL JUSTICE OBLIGATIONS FOR ALL AGENCIES. Covered agencies are required to comply with all provisions of this chapter. All other state agencies should strive to apply the laws of the state of Washington, and the rules and policies of the agency, in accordance with the policies of this chapter including, to the extent feasible, incorporating the principles of environmental justice assessment processes set forth in section 14 of this act into agency decisions.

NEW SECTION. Sec. 4. A new section is added to chapter 43.70 RCW to read as follows:

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF HEALTH.

The department must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 25 of this act).

NEW SECTION. Sec. 5. A new section is added to chapter 43.21A RCW to read as follows:

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF ECOLOGY.

The department must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 25 of this act).

NEW SECTION. Sec. 6. A new section is added to chapter 43.23 RCW to read as follows:

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF AGRICULTURE.

The department must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 25 of this act).

NEW SECTION. Sec. 7. A new section is added to chapter 43.30 RCW to read as follows:

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF NATURAL RESOURCES.

The department must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 25 of this act).

NEW SECTION. Sec. 8. A new section is added to chapter 43.330 RCW to read as follows:

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF COMMERCE.

The department must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 25 of this act).

NEW SECTION. Sec. 9. A new section is added to chapter 47.01 RCW to read as follows:

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE DEPARTMENT OF TRANSPORTATION.

The department must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 25 of this act).

NEW SECTION. Sec. 10. A new section is added to chapter 90.71 RCW to read as follows:

ENVIRONMENTAL JUSTICE OBLIGATIONS OF THE PUGET SOUND PARTNERSHIP.

The partnership must apply and comply with the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 25 of this act).

NEW SECTION. Sec. 11. AUTHORITY OF OTHER AGENCIES TO OPT IN TO ENVIRONMENTAL JUSTICE OBLIGATIONS. (1) Any state

agency, as the term "agency" is defined in RCW 34.05.010, including the governor's office and the office of the attorney general but excluding local governmental entities, may opt in to assume all of the substantive and procedural requirements of covered agencies under chapter 70A.--- RCW (the new chapter created in section 25 of this act) at any time by notifying the council established in section 20 of this act.

(2) An agency that opts in to assume all of the substantive and procedural requirements of chapter 70A.--- RCW (the new chapter created in section 25 of this act) is not subject to the deadlines or timelines established in sections 12, 13, 14, 16, and 20 of this act.

NEW SECTION. Sec. 12. INCORPORATING ENVIRONMENTAL JUSTICE INTO AGENCY STRATEGIC PLANS. (1) By January 1, 2023, each covered agency shall include an environmental justice implementation plan within its strategic plan. A covered agency may additionally incorporate an environmental justice implementation plan into other significant agency planning documents. The plan must describe how the covered agency plans to apply the principles of environmental justice to the agency's activities and must guide the agency in its implementation of its obligations under this chapter.

(2) In its environmental justice implementation plan, each covered agency must include:

(a) Agency-specific goals and actions to reduce environmental and health disparities and for otherwise achieving environmental justice in the agency's programs;

(b) Metrics to track and measure accomplishments of the agency goals and actions;

(c) Methods to embed equitable community engagement with, and equitable participation from, members of the public, into agency practices for soliciting and receiving public comment;

(d) Strategies to ensure compliance with existing federal and state laws and policies relating to environmental justice, including Title VI of the civil rights act of 1964, 42 U.S.C. Sec. 2000d-2000d-4, Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681-1683, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 794, and the age discrimination act of 1975, 42 U.S.C. Sec. 6101-6107;

(e) The plan for community engagement required under section 13 of this act; and

(f) Specific plans and timelines for incorporating environmental justice considerations into agency activities as required under this chapter.

(3) In developing and updating its plan, each covered agency must consider any guidance developed by the council pursuant to section 20 of this act.

NEW SECTION. Sec. 13. EQUITABLE COMMUNITY ENGAGEMENT AND PUBLIC PARTICIPATION. (1) By July 1, 2022, each covered agency must create and adopt a community engagement plan that describes how it will engage with overburdened communities and vulnerable populations as it evaluates new and existing activities and programs. This plan must describe how the agency plans to facilitate equitable participation and support meaningful and direct involvement of vulnerable populations and overburdened communities. The plan must include:

(a) How the covered agency will identify and prioritize overburdened communities for purposes of this chapter;

(b) Best practices for outreach and communication to overcome barriers to engagement with overburdened communities and vulnerable populations;

(c) Use of special screening tools that integrate environmental, demographic, and health disparities data, such as the environmental health disparities map, to evaluate and understand the nature and needs of the people who the agency expects to be impacted by significant agency actions under section 14 of this act and processes under section 16 of this act to overcome barriers to participation;

(d) Processes that facilitate and support the inclusion of members of communities affected by agency decision making including, to the extent legal and practicable, but not limited to, child care and reimbursement for travel and other expenses; and

(e) Methods for outreach and communication with those who face barriers, language or otherwise, to participation.

(2) Covered agencies must regularly review their compliance with existing laws and policies that guide community engagement and must comply with the following:

(a) Title VI of the civil rights act, prohibiting discrimination based on race, color, or national origin and requiring meaningful access to people with limited English proficiency, and disability;

(b) Executive Order 05-03, requiring plain talk when communicating with the public; and

(c) Guidance related to Executive Order 13166, requiring meaningful access to agency programs and services for people with limited English proficiency.

(3) In developing and updating its plan, each covered agency must consider any guidance developed by the council pursuant to section 20 of this act.

(4) A covered agency may coordinate with the office of equity to identify policy and system barriers to meaningful engagement with communities as conducted by the office under RCW 43.06D.040(1)(b).

NEW SECTION. Sec. 14. ENVIRONMENTAL JUSTICE ASSESSMENT. (1)(a) When considering a significant agency action initiated after July 1, 2023, a covered agency must conduct an environmental justice assessment in accordance with this section to inform and support the agency's consideration of overburdened communities and vulnerable populations when making decisions and to assist the agency with the equitable distribution of environmental benefits, the reduction of environmental harms, and the identification and reduction of environmental and health disparities.

(b) A covered agency must aspire to complete the environmental justice assessment for a significant agency action without delaying the completion of the underlying agency action.

(2)(a) Consistent with section 2(12)(e) of this act, for the purpose of preparing environmental justice assessments, a covered agency may deem actions significant that are additional to the significant agency actions identified in section 2(12) (a) through (d) of this act, in iterative consultation with the council and interagency work group established under section 20 of this act. By July 1, 2025, each covered agency must consider their agency's activities and identify and begin applying environmental justice assessments to any actions

that the agency identifies as significant that are in addition to the significant agency actions identified in section 2(12) (a) through (d) of this act. Significant agency actions designated by a covered agency under this subsection must be actions that may cause environmental harm or may affect the equitable distribution of environmental benefits to an overburdened community or a vulnerable population.

(b) In the identification of significant agency actions, covered agencies shall consider guidance issued by the council established in section 20 of this act. Each covered agency must periodically review and update its identified types of significant agency actions for which an environmental justice assessment is required under this section, and the relevant factors to the agency's environmental justice assessments that result from the unique mission, authorities, and priorities of the agency.

(3) By July 1, 2023, and periodically thereafter, after an opportunity for public comment on its determinations, each covered agency must:

(a) Publish on its website the types of agency actions that the agency has determined are significant agency actions that require an environmental justice assessment under this section, including any significant agency actions identified under subsection (2)(a) of this section;

(b) Provide notification of the determination of the types of significant agency actions in the Washington State Register; and

(c) Prepare an environmental justice assessment when considering a listed action, after publication of the list of any additional significant agency actions identified under (a) of this subsection.

(4) The environmental justice assessment obligation of a covered agency for a significant agency action under this section is satisfied by the completion by the covered agency of a checklist developed by the covered agency that functions akin to the environmental checklist developed by the department of ecology pursuant to chapter 43.21C RCW, and that directs the covered agency to at a minimum:

(a) Consider guidance prepared by the council under section 20 of this act relating to best practices on environmental justice assessments and when and how to use cumulative environmental health impact analysis;

(b) Where applicable, use cumulative environmental health impact analysis, such as the environmental health disparities map or other data that considers the effects of a proposed action on overburdened communities and vulnerable populations;

(c) Identify overburdened communities and vulnerable populations who are expected to be affected by the proposed action and the potential environmental and health impacts;

(d) Pursuant to the consultation process in section 18 of this act, identify if the proposed action is expected to have any local or regional impacts to federally reserved tribal rights and resources including, but not limited to, those protected by treaty, executive order, or federal law;

(e) Summarize community input and describe how the covered agency can further involve overburdened communities, vulnerable populations, affected tribes, and indigenous populations in development of the proposed action; and

(f) Describe options for the agency to reduce, mitigate, or eliminate identified probable impacts on overburdened communities and vulnerable

populations, or provide a justification for not reducing, mitigating, or eliminating identified probable impacts.

(5)(a) To obtain information for the purposes of assessments, a covered agency must solicit feedback from members of overburdened communities and vulnerable populations to assist in the accurate assessment of the potential impact of the action and in developing the means to reduce or eliminate the impact on overburdened communities and vulnerable populations.

(b) A covered agency may include items in the checklist required under subsection (4) of this section that are not specified in subsection (4) of this section.

(c) The completion of an environmental justice checklist under subsection (4) of this section is not required to be a comprehensive or an exhaustive examination of all potential impacts of a significant agency action and does not require a covered agency to conduct novel quantitative or economic analysis of the proposed significant agency action.

(6) Based on the environmental justice assessment, each covered agency must seek, to the extent legal and feasible and consistent with the underlying statute being implemented, to reduce or eliminate the environmental harms and maximize the environmental benefits created by the significant agency action on overburdened communities and vulnerable populations. Consistent with agency authority, mission, and statutory responsibilities, the covered agency must consider each of the following methods for reducing environmental harms or equitably distributing environmental benefits:

(a) Eliminating the disparate impact of environmental harms on overburdened communities and vulnerable populations;

(b) Reducing cumulative environmental health impacts on overburdened communities or vulnerable populations;

(c) Preventing the action from adding to the cumulative environmental health impacts on overburdened communities or vulnerable populations;

(d) Providing equitable participation and meaningful engagement of vulnerable populations and overburdened communities in the development of the significant agency action;

(e) Prioritizing equitable distribution of resources and benefits to overburdened communities;

(f) Promoting positive workforce and job outcomes for overburdened communities;

(g) Meeting community needs identified by the affected overburdened community;

(h) Modifying substantive regulatory or policy requirements; and

(i) Any other mitigation techniques, including those suggested by the council, the office of equity, or representatives of overburdened communities and vulnerable populations.

(7) If the covered agency determines it does not have the ability or authority to avoid or reduce any estimated environmental harm of the significant agency action on overburdened communities and vulnerable populations or address the distribution of environmental and health benefits, the agency must provide a clear explanation of why it has made that determination and provide notice of that explanation to members of the public who participated in the process for the

significant agency action or the process for the environmental justice assessment and who provided contact information to the agency.

(8) In developing a process for conducting environmental justice assessments, each covered agency must consider any guidance developed by the council pursuant to section 20 of this act.

(9) The issuance of forest practices permits under chapter 76.09 RCW or sale of timber from state lands and state forestlands as defined in RCW 79.02.010 do not require an environmental justice assessment under this section.

NEW SECTION. Sec. 15. The obligation of a covered agency to conduct an environmental justice assessment pursuant to section 14 of this act for significant agency actions does not, by itself, trigger requirements in chapter 43.21C RCW.

NEW SECTION. Sec. 16. ENVIRONMENTAL JUSTICE OBLIGATIONS OF AGENCIES RELATING TO BUDGETS AND FUNDING.

(1) With consideration of the guidelines issued by the council in section 20 of this act, and in iterative consultation with the council, each covered agency must incorporate environmental justice principles into its decision processes for budget development, making expenditures, and granting or withholding environmental benefits. Through the incorporation of environmental justice principles into its decision processes, including by conducting environmental justice assessments where required under section 14 of this act, each covered agency, to the extent allowed by law and consistent with legislative appropriations, must equitably distribute funding and expenditures related to programs that address or may cause environmental harms or provide environmental benefits towards overburdened communities and vulnerable populations.

(2) Beginning on or before July 1, 2023, each covered agency must, where practicable, take the following actions when making expenditure decisions or developing budget requests to the office of financial management and the legislature for programs that address or may cause environmental harms or provide environmental benefits:

(a) Focus applicable expenditures on creating environmental benefits that are experienced by overburdened communities and vulnerable populations, including reducing or eliminating environmental harms, creating community and population resilience, and improving the quality of life of overburdened communities and vulnerable populations;

(b) Create opportunities for overburdened communities and vulnerable populations to meaningfully participate in agency expenditure decisions;

(c) Clearly articulate environmental justice goals and performance metrics to communicate the basis for agency expenditures;

(d) Consider a broad scope of grants and contracting opportunities that effectuate environmental justice principles, including:

(i) Community grants to monitor pollution;

(ii) Grants focused on building capacity and providing training for community scientists and other staff;

(iii) Making technical assistance available for communities that may be new to receiving agency grant funding; and

(iv) Education and work readiness youth programs focused on infrastructure or utility-related internships to develop career paths and leadership skills for youth; and

(e) Establish a goal of directing 40 percent of grants and expenditures that create environmental benefits to vulnerable populations and overburdened communities.

(3) A covered agency may adopt rules or guidelines for criteria and procedures applicable to incorporating environmental justice principles in expenditure decisions, granting or withholding benefits, and processes for budget development.

(4) In incorporating environmental justice principles into its decision processes for budget development, making expenditures, and granting or withholding benefits, each covered agency must consider any guidance developed by the council pursuant to section 20 of this act.

(5) A covered agency may not take actions or make expenditures under this section that are inconsistent with or conflict with other statutes or with conditions or limitations on the agency's appropriations.

(6) If a covered agency, due to the breadth of its programs and funding opportunities, determines it is not practicable to take the actions listed in subsection (2) of this section for all applicable expenditure decisions and budget requests developed, the covered agency is encouraged to prioritize taking the actions listed in subsection (2) of this section for those budget requests and expenditure decisions that are primarily directed at addressing environmental impacts. By July 1, 2023, each covered agency must publish on its website the types of decision processes for budget development, making expenditures, and granting or withholding environmental benefits for which the agency will take the actions listed in subsection (2) of this section.

NEW SECTION. Sec. 17. REPORTING REQUIREMENTS. (1) By September 1st of each year, each covered agency must annually update the council on the development and implementation of environmental justice in agency strategic plans pursuant to section 12 of this act, budgeting and funding criteria for making budgeting and funding decisions pursuant to section 16 of this act, and community engagement plans pursuant to section 13 of this act.

(2)(a) Beginning in 2024, as part of each covered agency's annual update to the council under subsection (1) of this section, each covered agency must include updates on the agency's implementation status with respect to the environmental justice assessments under section 14 of this act.

(b) By September 1st of each year beginning in 2024, each covered agency must publish or update a dashboard report, in a uniform dashboard format on the office of financial management's website, describing the agency's progress on:

(i) Incorporating environmental justice in its strategic plan;

(ii) The obligations of agencies relating to budgets and funding under section 16 of this act; and

(iii) Its environmental justice assessments of proposed significant agency actions, including logistical metrics related to covered agency completion of environmental justice assessments.

(3) Each covered agency must file a notice with the office of financial management of significant agency actions for which the agency is initiating an environmental justice assessment under section 14 of this act. The office of

financial management must prepare a list of all filings received from covered agencies each week and must post the list on its website and make it available to any interested parties. The list of filings must include a brief description of the significant agency action and the methods for providing public comment for agency consideration as part of the environmental justice assessment.

(4) Each covered agency must identify overburdened communities, as required by section 13 of this act, in such a way that the performance effectiveness of the duties created by this chapter can be measured, including the effectiveness of environmental justice assessments required by section 14 of this act. Each covered agency may identify and prioritize overburdened communities as needed to accomplish the purposes of this chapter.

NEW SECTION. Sec. 18. TRIBAL CONSULTATION. (1) Covered agencies shall develop a consultation framework in coordination with tribal governments that includes best practices, protocols for communication, and collaboration with federally recognized tribes. Consistent with this framework, covered agencies must offer consultation with federally recognized Indian tribes on:

(a) The inclusion or updating of an environmental justice implementation plan within the covered agency's strategic plan required under section 12 of this act;

(b) The creation and adoption or updating of a community engagement plan required under section 13 of this act; and

(c) Significant agency actions under section 14 of this act that affect federally recognized Indian tribes' rights and interests in their tribal lands.

(2) The department of health must offer consultation with federally recognized Indian tribes on the development of the environmental health disparities map under section 19 of this act.

(3) The consultation under subsections (1) and (2) of this section must be independent of any public participation process required by state law, or by a state agency, and regardless of whether the agency receives a request for consultation from an Indian tribe.

(4) Nothing in this chapter is intended to direct, authorize, or encourage covered agencies to collect, maintain, or provide data related to sacred sites, traditional cultural properties, burial grounds, and other tribal sites protected by federal or state law.

NEW SECTION. Sec. 19. A new section is added to chapter 43.70 RCW to read as follows:

ENVIRONMENTAL HEALTH DISPARITIES MAP.

(1) In consultation with the environmental justice council established in section 20 of this act, the department must continue to develop and maintain an environmental health disparities map with the most current available information necessary to identify cumulative environmental health impacts and overburdened communities. The department may also consult with other interested partners, such as the University of Washington department of environmental and occupational health sciences, other academic partners, members of overburdened communities and vulnerable populations, and other agencies. The environmental health disparities map must include tools to:

(a) Track changes in environmental health disparities over time in an interactive, regularly updated display; and

(b) Measure the link between overall environmental health disparity map ranks, environmental data, vulnerable populations characteristics, such as race and income, and human health data.

(2) In further developing and maintaining the environmental health disparities map, the department must:

(a) Solicit feedback from representatives from overburdened communities and vulnerable populations through community engagement and listening sessions in all regions of the state and provide opportunities for public comment; and

(b) Request assistance from:

(i) State universities;

(ii) Other academic researchers, such as the Washington state institute for public policy, to perform modeling and create evidence-based indicators and to conduct sensitivity analyses to assess the impact of new indicators on communities and determinations of overburdened communities; and

(iii) Other state agencies to provide applicable statewide environmental and sampling data for air, water, soil, polluted sites, toxic waste, pesticides, toxic chemicals, and other applicable media.

(3) The department must:

(a) Document and publish a summary of the regular updates and revisions to the environmental health disparities map that happen over time as the new data becomes available, in order to help the public understand different versions of the map as they are published;

(b) At least every three years, perform a comprehensive evaluation of the map to ensure that the most current modeling and methods available to evaluate cumulative environmental health impacts are being used to develop and update the environmental health disparities map's indicators;

(c) Develop technical guidance for agencies that includes an online training video detailing a description of how to use the environmental health disparities map's features, access source data, and explanation of map and indicator limitations; and

(d) Provide support and consultation to agencies on the use of the environmental health disparities map by Washington tracking network staff.

(4)(a) By November 1, 2022, the Washington state institute for public policy must conduct a technical review of the measures and methods used in the environmental health disparities map. The review must, to the extent possible, address the following:

(i) Identify how the measures used in the map compare to measures used in other similar tools that aim to identify communities that are disproportionately impacted as a result of environmental justice issues;

(ii) Compare characteristics such as the reliability, validity, and clinical importance of individual and composite measures included in the map and other similar tools; and

(iii) Compare methodologies used in the map to statistical methodologies used in other similar tools.

(b) The department of health and the University of Washington must provide technical documentation regarding current methods to the Washington

state institute for public policy and must consult with the institute as needed to ensure that the institute has adequate information to complete the technical review.

(c) By November 1, 2022, the Washington state institute for public policy must submit a report on their findings to the office of the governor, the appropriate committees of the legislature, and the environmental justice council.

NEW SECTION. Sec. 20. ENVIRONMENTAL JUSTICE COUNCIL. (1) The environmental justice council is established to advise covered agencies on incorporating environmental justice into agency activities.

(2) The council consists of 14 members appointed by the governor. The councilmembers must be persons who are well-informed regarding and committed to the principles of environmental justice and who, to the greatest extent practicable, represent diversity in race, ethnicity, age, and gender, urban and rural areas, and different regions of the state. The members of the council shall elect two members to serve as cochairs for two-year terms. The council must include:

(a) Seven community representatives, including one youth representative, the nominations of which are based upon applied and demonstrated work and focus on environmental justice or a related field, such as racial or economic justice, and accountability to vulnerable populations and overburdened communities;

(i) The youth representative must be between the ages of 18 and 25 at the time of appointment;

(ii) The youth representative serves a two-year term. All other community representatives serve four-year terms, with six representatives initially being appointed to four-year terms and five being initially appointed to two-year terms, after which they will be appointed to four-year terms;

(b) Two members representing tribal communities, one from eastern Washington and one from western Washington, appointed by the governor. The governor shall solicit and consider nominees from each of the federally recognized tribes in Washington state. The governor shall collaborate with federally recognized tribes on the selection of tribal representatives. The tribal representatives serve four-year terms. One representative must be initially appointed for a four-year term. The other representative must be initially appointed for a two-year term, after which, that representative must be appointed for a four-year term;

(c) Two representatives who are environmental justice practitioners or academics to serve as environmental justice experts, the nominations of which are based upon applied and demonstrated work and focus on environmental justice;

(d)(i) One representative of a business that is regulated by a covered agency and whose ordinary business conditions are significantly affected by the actions of at least one other covered agency; and

(ii) One representative who is a member or officer of a union representing workers in the building and construction trades; and

(e) One representative at large, the nomination of which is based upon applied and demonstrated work and focus on environmental justice.

(3) Covered agencies shall serve as nonvoting, ex officio liaisons to the council. Each covered agency must identify an executive team level staff person to participate on behalf of the agency.

(4) Nongovernmental members of the council must be compensated and reimbursed in accordance with RCW 43.03.050, 43.03.060, and 43.03.220.

(5) The department of health must:

(a) Hire a manager who is responsible for overseeing all staffing and administrative duties in support of the council; and

(b) Provide all administrative and staff support for the council.

(6) In collaboration with the office of equity, the office of financial management, the council, and covered agencies, the department of health must:

(a) Establish standards for the collection, analysis, and reporting of disaggregated data as it pertains to tracking population level outcomes of communities;

(b) Create statewide and agency-specific process and outcome measures to show performance:

(i) Using outcome-based methodology to determine the effectiveness of agency programs and services on reducing environmental disparities; and

(ii) Taking into consideration community feedback from the council on whether the performance measures established accurately measure the effectiveness of covered agency programs and services in the communities served; and

(c) Create an online performance dashboard to publish performance measures and outcomes as referenced in section 17 of this act for the state and each covered agency.

(7) The department of health must coordinate with the consolidated technology services agency to address cybersecurity and data protection for all data collected by the department.

(8)(a) With input and assistance from the council, the department of health must establish an interagency work group to assist covered agencies in incorporating environmental justice into agency decision making. The work group must include staff from each covered agency directed to implement environmental justice provisions under this chapter and may include members from the council. The department of health shall provide assistance to the interagency work group by:

(i) Facilitating information sharing among covered agencies on environmental justice issues and between agencies and the council;

(ii) Developing and providing assessment tools for covered agencies to use in the development and evaluation of agency programs, services, policies, and budgets;

(iii) Providing technical assistance and compiling and creating resources for covered agencies to use; and

(iv) Training covered agency staff on effectively using data and tools for environmental justice assessments.

(b) The duties of the interagency work group include:

(i) Providing technical assistance to support agency compliance with the implementation of environmental justice into their strategic plans, environmental justice obligations for budgeting and funding criteria and

decisions, environmental justice assessments, and community engagement plans;

(ii) Assisting the council in developing a suggested schedule and timeline for sequencing the types of: (A) Funding and expenditure decisions subject to rules; and (B) criteria incorporating environmental justice principles;

(iii) Identifying other policies, priorities, and projects for the council's review and guidance development;

(iv) Identifying goals and metrics that the council may use to assess agency performance in meeting the requirements of this act for purposes of communicating progress to the public, the governor, and the legislature; and

(v) Developing the guidance under subsection (9)(c) of this section in coordination with the council.

(9) The council has the following powers and duties:

(a) To provide a forum for the public to:

(i) Provide written or oral testimony on their environmental justice concerns;

(ii) Assist the council in understanding environmental justice priorities across the state in order to develop council recommendations to agencies for issues to prioritize; and

(iii) Identify which agencies to contact with their specific environmental justice concerns and questions;

(b)(i) The council shall work in an iterative fashion with the interagency work group to develop guidance for environmental justice implementation into covered agency strategic plans pursuant to section 12 of this act, environmental justice assessments pursuant to section 14 of this act, budgeting and funding criteria for making budgeting and funding decisions pursuant to section 16 of this act, and community engagement plans pursuant to section 13 of this act;

(ii) The council and interagency work group shall regularly update its guidance;

(c) In consultation with the interagency work group, the council:

(i) Shall provide guidance to covered agencies on developing environmental justice assessments pursuant to section 14 of this act for significant agency actions;

(ii) Shall make recommendations to covered agencies on which agency actions may cause environmental harm or may affect the equitable distribution of environmental benefits to an overburdened community or a vulnerable population and therefore should be considered significant agency actions that require an environmental justice assessment under section 14 of this act;

(iii) Shall make recommendations to covered agencies:

(A) On the identification and prioritization of overburdened communities under this chapter; and

(B) Related to the use by covered agencies of the environmental and health disparities map in agency efforts to identify and prioritize overburdened communities;

(iv) May make recommendations to a covered agency on the timing and sequencing of a covered agencies' efforts to implement sections 12 through 16 of this act; and

(v) May make recommendations to the governor and the legislature regarding ways to improve agency compliance with the requirements of this chapter;

(d) By December 1, 2023, and biennially thereafter, and with consideration of the information shared on September 1st each year in covered agencies' annual updates to the council required under section 17 of this act, the council must:

(i) Evaluate the progress of each agency in applying council guidance, and update guidance as needed; and

(ii) Communicate each covered agency's progress to the public, the governor, and the legislature. This communication is not required to be a report and may take the form of a presentation or other format that communicates the progress of the state and its agencies in meeting the state's environmental justice goals in compliance with this act, and summarizing the work of the council pursuant to (a) through (d) of this subsection, and subsection (11) of this section.

(10) By November 30, 2023, and in compliance with RCW 43.01.036, the council must submit a report to the governor and the appropriate committees of the house of representatives and the senate on:

(a) The council's recommendations to covered agencies on the identification of significant agency actions requiring an environmental justice assessment under subsection (9)(c)(ii) of this section;

(b) The summary of covered agency progress reports provided to the council under section 17(1) of this act, including the status of agency plans for performing environmental justice assessments required by section 14 of this act; and

(c) Guidance for environmental justice implementation into covered agency strategic plans, environmental justice assessments, budgeting and funding criteria, and community engagement plans under subsection (9)(c)(i) of this section.

(11) The council may:

(a) Review incorporation of environmental justice implementation plans into covered agency strategic plans pursuant to section 12 of this act, environmental justice assessments pursuant to section 14 of this act, budgeting and funding criteria for making budgeting and funding decisions pursuant to section 16 of this act, and community engagement plans pursuant to section 13 of this act;

(b) Make recommendations for amendments to this chapter or other legislation to promote and achieve the environmental justice goals of the state;

(c) Review existing laws and make recommendations for amendments that will further environmental justice;

(d) Recommend to specific agencies that they create environmental justice-focused, agency-requested legislation;

(e) Provide requested assistance to state agencies other than covered agencies that wish to incorporate environmental justice principles into agency activities; and

(f) Recommend funding strategies and allocations to build capacity in vulnerable populations and overburdened communities to address environmental justice.

(12) The role of the council is purely advisory and council decisions are not binding on an agency, individual, or organization.

(13) The department of health must convene the first meeting of the council by January 1, 2022.

(14) All council meetings are subject to the open public meetings requirements of chapter 42.30 RCW and a public comment period must be provided at every meeting of the council.

NEW SECTION. Sec. 21. LEGAL OBLIGATIONS. (1) Nothing in this act prevents state agencies that are not covered agencies from adopting environmental justice policies and processes consistent with this act.

(2) The head of a covered agency may, on a case-by-case basis, exempt a significant agency action or decision process from the requirements of sections 14 and 16 of this act upon determining that:

(a) Any delay in the significant agency action poses a potentially significant threat to human health or the environment, or is likely to cause serious harm to the public interest;

(b) An assessment would delay a significant agency decision concerning the assessment, collection, or administration of any tax, tax program, debt, revenue, receipt, a regulated entity's financial filings, or insurance rate or form filing;

(c) The requirements of sections 14 and 16 of this act are in conflict with:

(i) Federal law or federal program requirements;

(ii) The requirements for eligibility of employers in this state for federal unemployment tax credits; or

(iii) Constitutional limitations or fiduciary obligations, including those applicable to the management of state lands and state forestlands as defined in RCW 79.02.010.

(3) A covered agency may not, for the purposes of implementing any of its responsibilities under this chapter, contract with an entity that employs a lobbyist registered under RCW 42.17A.600 that is lobbying on behalf of that entity.

NEW SECTION. Sec. 22. APPEALS. (1) Except as specified in subsection (2) of this section, the actions and duties set forth in this act are not subject to appeal.

(2)(a) Only the following agency actions undertaken pursuant to this act are subject to appeal:

(i) Decisions related to the designation of significant agency actions pursuant to section 14(3)(a) of this act; and

(ii) Environmental justice assessments prepared pursuant to section 14 of this act, only for environmental justice assessments for which there is an associated agency action that is appealable.

(b) Appeals of environmental justice assessments allowed under (a)(ii) of this subsection must be of the environmental justice assessment together with the accompanying agency action, as defined in RCW 34.05.010.

(3) Nothing in this act may be construed to create a new private right of action, other than as described in this section, on the part of any individual, entity, or agency against any state agency.

(4) Nothing in this act may be construed to expand, contract, or otherwise modify any rights of appeal, or procedures for appeal, under other laws other than the availability of the appeal process described in this section.

Sec. 23. RCW 43.376.020 and 2012 c 122 s 2 are each amended to read as follows:

In establishing a government-to-government relationship with Indian tribes, state agencies must:

(1) Make reasonable efforts to collaborate with Indian tribes in the development of policies, agreements, and program implementation that directly affect Indian tribes and develop a consultation process that is used by the agency for issues involving specific Indian tribes. Covered agencies, as defined in section 2 of this act, subject to the requirements of chapter 70A.--- RCW (the new chapter created in section 25 of this act), must offer consultation with Indian tribes on the actions specified in section 18 of this act;

(2) Designate a tribal liaison who reports directly to the head of the state agency;

(3) Ensure that tribal liaisons who interact with Indian tribes and the executive directors of state agencies receive training as described in RCW 43.376.040; and

(4) Submit an annual report to the governor on activities of the state agency involving Indian tribes and on implementation of this chapter.

Sec. 24. RCW 34.05.030 and 2015 3rd sp.s. c 1 s 309 are each amended to read as follows:

(1) This chapter shall not apply to:

(a) The state militia, or

(b) The board of clemency and pardons, or

(c) The department of corrections or the indeterminate sentencing review board with respect to persons who are in their custody or are subject to the jurisdiction of those agencies.

(2) The provisions of RCW 34.05.410 through 34.05.598 shall not apply:

(a) To adjudicative proceedings of the board of industrial insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

(b) Except for actions pursuant to chapter 46.29 RCW, to the denial, suspension, or revocation of a driver's license by the department of licensing;

(c) To the department of labor and industries where another statute expressly provides for review of adjudicative proceedings of a department action, order, decision, or award before the board of industrial insurance appeals;

(d) To actions of the Washington personnel resources board, the director of financial management, and the department of enterprise services when carrying out their duties under chapter 41.06 RCW;

(e) To adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261; ((~~or~~))

(f) To actions to implement the provisions of chapter 70A.--- RCW (the new chapter created in section 25 of this act), except as specified in section 22 of this act; or

(g) To the extent they are inconsistent with any provisions of chapter 43.43 RCW.

(3) Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not apply to a review hearing conducted by the board of tax appeals.

(4) The rule-making provisions of this chapter do not apply to:

(a) Reimbursement unit values, fee schedules, arithmetic conversion factors, and similar arithmetic factors used to determine payment rates that apply to goods and services purchased under contract for clients eligible under chapter 74.09 RCW; and

(b) Adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261.

(5) All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

NEW SECTION. Sec. 25. Sections 1 through 3, 11 through 18, and 20 through 22 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. Sec. 26. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 27. 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.

Passed by the Senate April 20, 2021.

Passed by the House April 10, 2021.

Approved by the Governor May 17, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 315

[Engrossed Second Substitute House Bill 1050]

HYDROFLUOROCARBONS—EMISSIONS REDUCTION

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

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

NEW SECTION. Sec. 1. (1) The legislature finds that hydrofluorocarbons are air pollutants that pose significant threats to our environment. Although hydrofluorocarbons currently represent a small proportion of the state's greenhouse gas emissions, emissions of hydrofluorocarbons have been rapidly increasing in the United States and worldwide, and they are hundreds to thousands of times more potent than carbon dioxide. In 2019, the legislature took a significant step towards reducing greenhouse gas emissions from hydrofluorocarbons by transitioning to the use of less damaging hydrofluorocarbons or suitable substitutes in certain new foam, aerosol, and refrigerant uses. However, significant sources of hydrofluorocarbon emissions in Washington remain unaddressed by the 2019 legislation, including legacy uses

of hydrofluorocarbons as a refrigerant in infrastructure that was installed prior to the effective dates of the restrictions in the 2019 law, and from sources like stationary air conditioners and heat pumps that were not covered by the 2019 law.

(2) Therefore, it is the intent of the legislature to reduce hydrofluorocarbon emissions, including by:

(a) Authorizing the establishment of a maximum global warming potential threshold for hydrofluorocarbons used as a refrigerant;

(b) Authorizing the regulation of hydrofluorocarbons in air conditioning and heat pumps;

(c) Applying the same basic emission control requirements to hydrofluorocarbons that have long applied to ozone-depleting substances used as refrigerants;

(d) Establishing a program to reduce leaks and encourage refrigerant recovery from large refrigeration and air conditioning systems;

(e) Directing the state building code council to adopt codes that are consistent with the goal of reducing greenhouse gas emissions associated with hydrofluorocarbons;

(f) Establishing a state procurement preference for recycled refrigerants; and

(g) Allowing consideration of the global warming potential of refrigerants used in equipment incentivized under utility conservation programs.

(3) Furthermore, it is the intent of the legislature that the ice rink used by Seattle's newest hockey franchise, the Seattle Kraken, should be as cold as possible, but also should be refrigerated using climate-friendly refrigerants, so that on opening night of the 2021-2022 National Hockey League season, as many fans as possible can simultaneously yell the Pacific Northwest's favorite new phrase: 'Release the Kraken!'

NEW SECTION. Sec. 2. (1)(a) "Air conditioning" means the process of treating air to meet the requirements of a conditioned space by controlling its temperature, humidity, cleanliness, or distribution.

(b)(i) "Air conditioning" includes chillers, except for purposes of section 8 of this act.

(ii) "Air conditioning" includes heat pumps.

(c) "Air conditioning" applies to stationary air conditioning equipment and does not apply to mobile air conditioning, including those used in motor vehicles, rail and trains, aircraft, watercraft, recreational vehicles, recreational trailers, and campers.

(2) "Class I substance" and "class II substance" means those substances listed in 42 U.S.C. Sec. 7671a, as of November 15, 1990, or those substances listed in Appendix A or B of Subpart A of 40 C.F.R. Part 82, as of January 3, 2017.

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

(4) "Hydrofluorocarbons" means a class of greenhouse gases that are saturated organic compounds containing hydrogen, fluorine, and carbon.

(5) "Ice rink" means a frozen body of water, hardened chemicals, or both, including, but not limited to, professional ice skating rinks and those used by the general public for recreational purposes.

(6) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces any product that contains or uses hydrofluorocarbons or is an importer or domestic distributor of such a product.

(7) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of the state.

(8) "Refrigeration equipment" or "refrigeration system" means any stationary device that is designed to contain and use refrigerant. "Refrigeration equipment" includes refrigeration equipment used in retail food, cold storage, industrial process refrigeration and cooling that does not use a chiller, ice rinks, and other refrigeration applications.

(9) "Regulated refrigerant" means a class I or class II substance as listed in Title VI of section 602 of the federal clean air act amendments of November 15, 1990.

(10) "Residential consumer refrigeration products" has the same meaning as defined in section 430.2 of Subpart A of 10 C.F.R. Part 430 (2017).

(11) "Retrofit" has the same meaning as defined in section 152 of Subpart F of 40 C.F.R. Part 82, as that section existed as of January 3, 2017.

(12) "Substitute" means a chemical, product, or alternative manufacturing process, whether existing or new, that is used to perform a function previously performed by a class I substance or class II substance and any chemical, product, or alternative manufacturing process subsequently developed, adapted, or adopted to perform that function including, but not limited to, hydrofluorocarbons. "Substitute" does not include 2-BTP or any compound as applied to its use in aerospace fire extinguishing systems.

Sec. 3. RCW 70A.45.010 and 2020 c 79 s 5 are each reenacted and amended to read as follows:

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

(1) "Carbon dioxide equivalents" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(2) "Carbon sequestration" means the process of capturing and storing atmospheric carbon dioxide through biologic, chemical, geologic, or physical processes.

~~(3) ("Class I substance" and "class II substance" means those substances listed in 42 U.S.C. Sec. 7671a, as it read on November 15, 1990, or those substances listed in Appendix A or B of Subpart A of 40 C.F.R. Part 82, as those read on January 3, 2017.~~

~~(4))~~ (4) "Climate advisory team" means the stakeholder group formed in response to executive order 07-02.

~~((5))~~ (4) "Climate impacts group" means the University of Washington's climate impacts group.

~~((6))~~ (5) "Department" means the department of ecology.

~~((7))~~ (6) "Director" means the director of the department.

~~((8))~~ (7) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the department by rule.

~~((9)) "Hydrofluorocarbons" means a class of greenhouse gases that are saturated organic compounds containing hydrogen, fluorine, and carbon.~~

~~(10) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces any product that contains or uses hydrofluorocarbons or is an importer or domestic distributor of such a product.~~

~~((11)) (8) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of the state.~~

~~((12)) (9) "Program" means the department's climate change program.~~

~~((13) "Residential consumer refrigeration products" has the same meaning as defined in section 430.2 of Subpart A of 10 C.F.R. Part 430 (2017).~~

~~(14) "Retrofit" has the same meaning as defined in section 152 of Subpart F of 40 C.F.R. Part 82, as that section existed as of January 3, 2017.~~

~~(15) "Substitute" means a chemical, product substitute, or alternative manufacturing process, whether existing or new, that is used to perform a function previously performed by a class I substance or class II substance and any substitute subsequently adopted to perform that function, including, but not limited to, hydrofluorocarbons. "Substitute" does not include 2-BTP or any compound as applied to its use in aerospace fire extinguishing systems.~~

~~((6)) (10) "Western climate initiative" means the collaboration of states, Canadian provinces, Mexican states, and tribes to design a multisector market-based mechanism as directed under the western regional climate action initiative signed by the governor on February 22, 2007.~~

Sec. 4. RCW 70A.15.6410 and 1991 c 199 s 602 are each amended to read as follows:

~~(1) ((Regulated refrigerant means a class I or class II substance as listed in Title VI of section 602 of the federal clean air act amendments of November 15, 1990.~~

~~(2)) A person who services or repairs or disposes of a motor vehicle air conditioning system; commercial or industrial air conditioning, heating, or refrigeration system; or consumer appliance shall use refrigerant extraction equipment to recover regulated refrigerants and substitutes that would otherwise be released into the atmosphere. ~~((This subsection does not apply to off-road commercial equipment.~~~~

~~(3)) (2) Upon request, the department shall provide information and assistance to persons interested in collecting, transporting, or recycling regulated refrigerants and substitutes.~~

~~((4)) (3) The willful release of regulated refrigerants and substitutes from a source listed in subsection ~~((2)) (1) of this section is prohibited.~~~~

Sec. 5. RCW 70A.15.6420 and 1991 c 199 s 603 are each amended to read as follows:

No person may sell, offer for sale, or purchase any of the following:

(1) A substitute with a global warming potential of greater than 150 or a regulated refrigerant in a container designed for consumer recharge of a motor vehicle air conditioning system or consumer appliance during repair or service~~((This subsection does not apply to a regulated refrigerant purchased for the recharge of the air conditioning system of off-road commercial or agricultural~~

~~equipment and sold or offered for sale at an establishment which specializes in the sale of off-road commercial or agricultural equipment or parts or service for such equipment);~~

(2) Nonessential consumer products that contain hydrofluorocarbons with a global warming potential of greater than 150 and chlorofluorocarbons or other ozone-depleting chemicals, and for which ~~((substitutes))~~ suitable alternatives are readily available. Products affected under this subsection shall include, but are not limited to, party streamers, tire inflators, air horns, noise makers, and ~~((chlorofluorocarbon-containing))~~ cleaning sprays designed for noncommercial or nonindustrial cleaning of electronic or photographic equipment. Products and equipment subject to restrictions on applications or end uses under RCW 70A.45.080 (as recodified by this act) are not nonessential products for which hydrofluorocarbons are restricted under this section.

Sec. 6. RCW 70A.15.6430 and 2020 c 20 s 1160 are each amended to read as follows:

The department shall adopt rules to implement RCW 70A.15.6410 and 70A.15.6420 (as recodified by this act). Rules shall include but not be limited to minimum performance specifications for refrigerant extraction equipment, procedures under which owners or operators of stationary refrigeration equipment and air conditioning equipment subject to the requirements of section 9 of this act must provide the department with information related to their use of regulated refrigerants and substitutes, as well as procedures for enforcing RCW 70A.15.6410 and 70A.15.6420 (as recodified by this act) and section 8 of this act.

~~((Enforcement provisions adopted by the department shall not include penalties or fines in areas where equipment to collect or recycle regulated refrigerants is not readily available.))~~

Sec. 7. RCW 70A.45.080 and 2020 c 20 s 1404 are each amended to read as follows:

(1) A person may not offer any product or equipment for sale, lease, or rent, or install or otherwise cause any equipment or product to enter into commerce in Washington if that equipment or product consists of, uses, or will use a substitute, as set forth in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, for the applications or end uses restricted by appendix U or V of the federal regulation, as those read on January 3, 2017, consistent with the deadlines established in subsection (2) of this section. Except where existing equipment is retrofit, nothing in this subsection requires a person that acquired a restricted product or equipment prior to the effective date of the restrictions in subsection (2) of this section to cease use of that product or equipment. Products or equipment manufactured prior to the applicable effective date of the restrictions specified in subsection (2) of this section may be sold, imported, exported, distributed, installed, and used after the specified effective date.

(2) The restrictions under subsection (1) of this section for the following products and equipment identified in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, take effect beginning:

- (a) January 1, 2020, for:
 - (i) Propellants;

(ii) Rigid polyurethane applications and spray foam, flexible polyurethane, integral skin polyurethane, flexible polyurethane foam, polystyrene extruded sheet, polyolefin, phenolic insulation board, and bunstock;

(iii) Supermarket systems, remote condensing units, and stand-alone units(~~(; and vending machines)~~);

(b) January 1, 2021, for:

(i) Refrigerated food processing and dispensing equipment;

(ii) Compact residential consumer refrigeration products;

(iii) Polystyrene extruded boardstock and billet, and rigid polyurethane low-pressure two component spray foam;

(c) January 1, 2022, for (~~(residential)~~);

(i) Residential consumer refrigeration products other than compact and built-in residential consumer refrigeration products; and

(ii) Vending machines;

(d) January 1, 2023, for cold storage warehouses;

(e) January 1, 2023, for built-in residential consumer refrigeration products;

(f) January 1, 2024, for centrifugal chillers and positive displacement chillers; and

(g) On either January 1, 2020, or the effective date of the restrictions identified in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, whichever comes later, for all other applications and end uses for substitutes not covered by the categories listed in (a) through (f) of this subsection.

(3) The department may by rule:

(a) Modify the effective date of a prohibition established in subsection (2) of this section if the department determines that the rule reduces the overall risk to human health or the environment and reflects the earliest date that a substitute is currently or potentially available;

(b) Prohibit the use of a substitute if the department determines that the prohibition reduces the overall risk to human health or the environment and that a lower risk substitute is currently or potentially available;

(c)(i) Adopt a list of approved substitutes, use conditions, or use limits, if any; and

(ii) Add or remove substitutes, use conditions, or use limits to or from the list of approved substitutes if the department determines those substitutes reduce the overall risk to human health and the environment; and

(d) Designate acceptable uses of hydrofluorocarbons for medical uses that are exempt from the requirements of subsection (2) of this section.

~~(4)((a) Within twelve months of another state's enactment or adoption of restrictions on substitutes applicable to new light duty vehicles, the department may adopt restrictions applicable to the sale, lease, rental, or other introduction into commerce by a manufacturer of new light duty vehicles consistent with the restrictions identified in appendix B, Subpart G of 40 C.F.R. Part 82, as it read on January 3, 2017. The department may not adopt restrictions that take effect prior to the effective date of restrictions adopted or enacted in at least one other state.~~

~~(b) If the United States environmental protection agency approves a previously prohibited hydrofluorocarbon blend with a global warming potential of seven hundred fifty or less for foam blowing of polystyrene extruded~~

~~boardstock and billet and rigid polyurethane low-pressure two-component spray foam pursuant to the significant new alternatives policy program under section 7671(k) of the federal clean air act (42 U.S.C. Sec. 7401 et seq.), the department must expeditiously propose a rule consistent with RCW 34.05.320 to conform the requirements established under this section with that federal action.~~

~~(5) A manufacturer must disclose the substitutes used in its products or equipment.)~~ The department shall adopt rules requiring that manufacturers disclose the substitutes used in their products or equipment or to disclose the compliance status of their products or equipment. That disclosure must take the form of:

(a) A label on the equipment or product. The label must meet requirements designated by the department by rule. To the extent feasible, the department must recognize existing labeling that provides sufficient disclosure of the use of substitutes in the product or equipment or of the compliance status of the products or equipment.

(i) The department must consider labels required by state building codes and other safety standards in its rule making; and

(ii) The department may not require labeling of aircraft and aircraft components subject to certification requirements of the federal aviation administration.

(b) Submitting information about the use of substitutes to the department, upon request.

(i) By December 31, 2019, all manufacturers must notify the department of the status of each product class utilizing hydrofluorocarbons or other substitutes restricted under subsection (1) of this section that the manufacturer sells, offers for sale, leases, installs, or rents in Washington state. This status notification must identify the substitutes used by products or equipment in each product or equipment class in a manner determined by rule by the department.

(ii) Within one hundred twenty days after the date of a restriction put in place under this section, any manufacturer affected by the restriction must provide an updated status notification. This notification must indicate whether the manufacturer has ceased the use of hydrofluorocarbons or substitutes restricted under this section within each product class and, if not, what hydrofluorocarbons or other restricted substitutes remain in use.

(iii) After the effective date of a restriction put in place under this section, any manufacturer must provide an updated status notification when the manufacturer introduces a new or modified product or piece of equipment that uses hydrofluorocarbons or changes the type of hydrofluorocarbons utilized within a product class affected by a restriction. Such a notification must occur within one hundred twenty days of the introduction into commerce in Washington of the product or equipment triggering this notification requirement.

~~((6))~~ (c) Alternative disclosure requirements to (a) of this subsection, if the department determines that the inclusion of a label denoting substitutes used or compliance status is not feasible for a particular product or equipment.

(5) The department may adopt rules to administer, implement, and enforce this section. If the department elects to adopt rules, the department must seek, where feasible and appropriate, to adopt rules, including rules under subsection (4) of this section, that are the same or consistent with the regulatory standards, exemptions, reporting obligations, disclosure requirements, and other

compliance requirements of other states or the federal government that have adopted restrictions on the use of hydrofluorocarbons and other substitutes. Prior to the adoption or update of a rule under this section, the department must identify the sources of information it relied upon, including peer-reviewed science.

~~((7))~~ (6) For the purposes of implementing the restrictions specified in appendix U of Subpart G of 40 C.F.R. Part 82, as it read on January 3, 2017, consistent with this section, the department must interpret the term "aircraft maintenance" to mean activities to support the production, fabrication, manufacture, rework, inspection, maintenance, overhaul, or repair of commercial, civil, or military aircraft, aircraft parts, aerospace vehicles, or aerospace components.

~~((8) The authority granted by this section to the department for restricting the use of substitutes is supplementary to the department's authority to control air pollution pursuant to chapter 70A.15 RCW. Nothing in this section limits the authority of the department under chapter 70A.15 RCW.~~

~~((9))~~ (7) Except where existing equipment is retrofitted, the restrictions of this section do not apply to or limit any use of commercial refrigeration equipment that was installed or in use prior to the effective date of the restrictions established in this section.

NEW SECTION. Sec. 8. (1) Within 12 months of another state's enactment or adoption of restrictions on substitutes applicable to new light-duty vehicles, the department may adopt restrictions applicable to the sale, lease, rental, or other introduction into commerce by a manufacturer of new light-duty vehicles consistent with the restrictions identified in appendix B, Subpart G of 40 C.F.R. Part 82, as of January 3, 2017. The department may apply an effective date to the restrictions adopted under this subsection that differs from the effective date of the restrictions adopted by another state, but the department may not adopt restrictions that take effect prior to the effective date of restrictions adopted or enacted in at least one other state.

(2) The department may adopt rules that establish a maximum global warming potential of 750 for substitutes used in new stationary air conditioning. Rules adopted under this subsection may not take effect prior to:

(a) January 1, 2023, for dehumidifiers and room air conditioners;

(b)(i) January 1, 2025, for other types of stationary air conditioning equipment, but only if before January 1, 2023, the state building code council adopts the following safety standards into the state building code as these standards existed as of the effective date of this section:

(A) American society of heating, refrigerating, and air-conditioning engineers standard 15;

(B) American society of heating, refrigerating, and air-conditioning engineers standard 15.2;

(C) American society of heating, refrigerating, and air-conditioning engineers standard 34; and

(D) Underwriters laboratories standard UL 60335-2-40 edition 4;

(ii) If the state building code council adopts the safety standards referenced in (b)(i) of this subsection after January 1, 2023, the restrictions of this subsection may apply to refrigeration equipment manufactured no earlier than 24 months after the adoption of the safety standards; and

(c) January 1, 2026, for systems with variable refrigerant flow or volume.

(3)(a) Consistent with the timeline established in (b) of this subsection, the department may adopt rules to prohibit the use of refrigerant substitutes that have a global warming potential of greater than 150 for use in refrigeration equipment containing more than 50 pounds of refrigerant;

(b)(i) The restrictions in (a) of this subsection must apply to new refrigeration equipment manufactured after December 31, 2024, but only if before January 1, 2023, the state building code council adopts the following safety standards into the state building code, as these standards existed as of the effective date of this section:

(A) American society of heating, refrigerating, and air-conditioning engineers standard 15;

(B) American society of heating, refrigerating, and air-conditioning engineers standard 34; and

(C) Underwriters laboratories standard UL 60335-2-89 edition 2;

(ii) If the state building code council adopts the safety standards referenced in (b)(i) of this subsection after January 1, 2023, the restrictions of (a) of this subsection may apply to refrigeration equipment manufactured no earlier than 24 months after the adoption of the safety standards.

(4) The department shall prohibit the use of refrigerant substitutes that have a global warming potential of greater than:

(a) One hundred fifty for use in new equipment manufactured after December 31, 2023, for installation in new ice rinks; and

(b) Seven hundred fifty for use in new equipment manufactured after December 31, 2023, for installation in existing ice rinks.

(5)(a) The department, in rules adopted to implement this section, may establish reporting, labeling, and recordkeeping requirements applicable to regulated facilities and persons. To the extent practicable, rules adopted under this section must be harmonized with reporting, labeling, or recordkeeping requirements established under section 9 of this act.

(b) To the extent practicable, the department must adopt rules to implement this section that are consistent with similar programs in other states that reduce emissions from refrigerants.

(c) The department may adopt rules to grant variances from the requirements of this section.

(d) Restrictions adopted by the department under this section are additional to specific restrictions on applications and end uses established in RCW 70A.45.080 (as recodified by this act).

(6)(a) Prior to adopting final rules to implement restrictions under subsection (2) or (3) of this section, the department must review the availability and affordability of:

(i) Equipment that meets applicable global warming potential requirements;

(ii) Refrigerants that meet applicable global warming potential requirements; and

(iii) Appropriate training to utilize equipment that meets applicable global warming potential requirements.

(b) After the review required under (a) of this subsection, the department is encouraged to consider delaying the effective date of restrictions under this section in the event that the department determines that significant training or

compliant equipment or refrigerant availability and affordability limitations are expected to occur.

NEW SECTION. Sec. 9. (1) The department shall establish a refrigerant management program designed to reduce emissions of refrigerants, including regulated substances and their substitutes, from activities or equipment responsible for significant volumes of such emissions. The program must include, at minimum, larger stationary refrigeration systems and larger commercial air conditioning systems. The department must adopt rules to implement and enforce the requirements of this section. The department may require compliance with refrigerant management program requirements beginning no earlier than January 1, 2024, and no earlier than the adjournment of the regular legislative session following the submission of a report to the appropriate committees of the legislature by the department estimating leakage of refrigerants from existing systems in Washington, and estimating a statewide rate of leakage from the categories of systems that are subject to the refrigerant management program rules adopted by the department under this section.

(2)(a) The department shall exempt refrigeration and air conditioning equipment operations associated with de minimis emissions or with a de minimis charging capacity of less than 50 pounds in a single system from registration, reporting, and leak detection requirements established in this section. The department shall exempt from the requirements established in this section equipment that uses refrigerants with a global warming potential of less than 150 and that are not class I or class II substances.

(b) The department may scale the requirements adopted under this section based on the size of the equipment, the facility containing the equipment, or the business operations of a person responsible for such emissions. The department may establish delayed effective dates of requirements applicable to persons and systems associated with lower emissions of refrigerants than other persons and systems regulated under this section.

(3) Each year, the owner or operator of a stationary refrigeration system or air conditioning system that exceeds a de minimis charge capacity of 50 pounds must register with the department. The department must phase in system registration requirements under this subsection in order to prioritize systems with the largest charge capacity or greatest potential for refrigerant emissions. Registration with the department must, consistent with rules adopted by the department, include the submission of information about the refrigeration system, including equipment type, refrigerant charge capacity, and the type of refrigerant used.

(4) Prior to the sale of a registered refrigeration or air conditioning system, the owners or operators of the system must provide leak rate documentation to the prospective purchaser.

(5) The owner or operator of a registered stationary refrigeration system or air conditioning system must conduct periodic leak-detection inspections of the system. The department may require inspections to be conducted with relatively greater frequency for systems with larger volumes of refrigerants. The department may exempt systems that use refrigerants with low global warming potential or that have automatic leak-detection systems from the requirements of this subsection.

(6) The owner or operator of a registered stationary refrigeration or air conditioning system must inspect for leaks each time significant amounts of refrigerant are added to the system.

(7) The department must adopt rules that:

(a) Require refrigeration or air conditioning systems found to be leaking to be repaired within a specified amount of time;

(b) Require the retrofit, replacement, or retirement of a refrigeration or air conditioning system with a leak that is not capable of being repaired;

(c) Establish annual reporting requirements for owners or operators of refrigeration systems or air conditioning systems that include information about the system, including system service and leak repair conducted on the system over the preceding year, and information on the purchase and use of refrigerants in the covered system during the preceding year;

(d) Establish annual reporting requirement for refrigerant wholesalers, distributors, and reclaimers;

(e) Establish record retention requirements for operators of facilities and wholesalers, distributors, and reclaimers of refrigerants and substitutes;

(f) Apply leak rates and other regulatory thresholds that achieve greater emission reductions than the federal regulations adopted by the United States environmental protection agency, and that reflect levels of achievable superior performance established for the greenhill voluntary program implemented by the United States environmental protection agency; and

(g) To the maximum extent practicable while giving consideration to the goals of this chapter, establish recordkeeping and reporting requirements that are consistent with programs implemented by the federal environmental protection agency or in other states, and that minimize compliance costs and regulatory burdens for regulated parties.

(8) The department may adopt rules to establish:

(a) Service practices for stationary appliances, including both stationary refrigeration systems and air conditioning systems. Service practices established by the department may include requiring technicians certified under United States environmental protection agency standards to service refrigerant systems, requiring reporting and recordkeeping that identifies the technicians that have serviced appliances, prohibiting practices likely to result in releases to the environment, requiring all practicable efforts to recover refrigerants from covered systems, and prohibiting the addition of refrigerants to systems known to have a leak; and

(b) A process for wholesalers, distributors, reclaimers, and refrigeration and air conditioning equipment operators to apply to the department for an exemption from some or all of the requirements of this section. Exemptions may be granted by the department on the basis of economic hardship, natural disaster, or after considering a calculation of lifecycle greenhouse gas emissions associated with the granting of an exemption that will allow an identified leak to go unrepaired for a finite period of time.

(9) The department may determine, assess, and collect annual fees from the owners or operators of refrigeration and air conditioning systems regulated under this section in an amount sufficient to cover the direct and indirect costs of administering and enforcing the provisions of this section. All fees collected

under this subsection must be deposited in the refrigerant emission management account created in section 12 of this act.

(10) By December 1, 2029, and every five years thereafter, the department must consider the greenhouse gas emissions reductions achieved under the program created in this section and the criteria of section 11(3) of this act, and make a determination whether to continue to implement the program for the following five years. The department must notify the appropriate committees of the house of representatives and the senate of its determination.

Sec. 10. RCW 19.27.580 and 2019 c 284 s 7 are each amended to read as follows:

(1) The building code council shall adopt rules, including by amending existing rules as necessary, that permit the use of substitutes approved under RCW ((70.235.080)) 70A.45.080 (as recodified by this act) and that do not require the use of substitutes that are restricted under RCW ((70.235.080)) 70A.45.080 (as recodified by this act). The building code council may not prohibit the use of a substitute refrigerant allowed pursuant to the United States environmental protection agency's significant new alternatives policy to implement 42 U.S.C. Sec. 7671k.

(2) The building code council shall adopt rules that allow the use of substitutes, as defined in section 2 of this act, with a lower global warming potential than alternative substances, in accordance with nationally recognized, published standards that protect building occupant safety and reduce fire risks.

(3) The building code council may adopt rules that allow the use of substitutes, as defined in section 2 of this act, that are under review but have not yet been approved by the United States environmental protection agency's significant new alternatives policy to implement 42 U.S.C. Sec. 7671k, if the substitutes have a lower global warming potential than alternative substances and meet nationally recognized, published standards that protect building occupant safety and reduce fire risks.

(4) Any rules adopted by the building code council that affect the design or installation of refrigeration or air conditioning systems must be consistent with a goal of minimizing system leakage of refrigerants.

(5) Prior to the adoption of any rules by the building code council that affect the design or installation of refrigeration or air conditioning systems that facilitate the use of substitutes with a low global warming potential in air conditioning systems or equipment, the building code council must solicit input from organizations representing affected parties and parties with expertise in the substitutes or affected types of systems or equipment including, but not limited to:

(a) Manufacturers, distributors, and installers of refrigeration and air conditioning systems; and

(b) Refrigeration and air conditioning system contractors that are small businesses or that primarily serve rural areas.

NEW SECTION. Sec. 11. (1) The authority granted by this chapter to the department for restricting the use of substitutes is supplementary to the department's authority to control air pollution pursuant to chapter 70A.15 RCW. Nothing in this chapter limits the authority of the department under chapter 70A.15 RCW.

(2) The department, in enforcing the requirements of this chapter, must adhere to the provisions applicable to the department under chapter 43.05 RCW regarding site inspections, technical assistance visits, notices of correction, and the issuance of civil penalties, to the extent that these provisions are not in conflict with federal requirements described in RCW 43.05.901.

(3) The department may elect to refrain from or cease administering or enforcing a requirement of this chapter if the United States environmental protection agency adopts requirements that:

(a) Are substantially duplicative of the requirements of this chapter and that negate the additional emission reduction benefits of state implementation of any requirement of this chapter; or

(b) Preempt state authority under this chapter.

NEW SECTION. Sec. 12. The refrigerant emission management account is created in the state treasury. All receipts received by the state from the fees imposed under section 9 of this act must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to develop and implement the provisions of section 9 of this act.

Sec. 13. RCW 70A.15.1010 and 2020 c 20 s 1080 are each amended to read as follows:

(1) The air pollution control account is established in the state treasury. All receipts collected by or on behalf of the department from RCW 70A.15.2200(2), and receipts from nonpermit program sources under RCW 70A.15.2210(1) and 70A.15.2230(7), and all receipts from RCW 70A.15.5090 and 70A.15.5120 shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to develop and implement the provisions of this chapter, chapter 70A.25 RCW, and RCW 70A.45.080 (as recodified by this act).

(2) The amounts collected and allocated in accordance with this section shall be expended upon appropriation except as otherwise provided in this section and in accordance with the following limitations:

Portions of moneys received by the department of ecology from the air pollution control account shall be distributed by the department to local authorities based on:

(a) The level and extent of air quality problems within such authority's jurisdiction;

(b) The costs associated with implementing air pollution regulatory programs by such authority; and

(c) The amount of funding available to such authority from other sources, whether state, federal, or local, that could be used to implement such programs.

(3) The air operating permit account is created in the custody of the state treasurer. All receipts collected by or on behalf of the department from permit program sources under RCW 70A.15.2210(1), 70A.15.2260, 70A.15.2270, and 70A.15.2230(7) shall be deposited into the account. Expenditures from the account may be used only for the activities described in RCW 70A.15.2210(1), 70A.15.2260, 70A.15.2270, and 70A.15.2230(7). Moneys in the account may be spent only after appropriation.

NEW SECTION. Sec. 14. (1) By December 1, 2021, the department of ecology must provide recommendations to the appropriate committees of the house of representatives and the senate regarding the optimal design of a program to address the end-of-life management and disposal of refrigerants including, but not limited to, ozone-depleting substances and hydrofluorocarbons. In developing the recommendations, the department must solicit feedback from potentially impacted parties and the public, and must consider actions taken by other jurisdictions to incentivize refrigerant reuse or reclamation. The recommendations may come in the form of draft legislation.

(2) The recommendations must specifically include, at minimum, the following program design considerations:

(a) The legal and financial obligations to support or participate in the program applicable to refrigerant manufacturers, importers, distributors, and retailers, and to refrigerant-using equipment owner-operators and service technicians;

(b) A funding mechanism for refrigerant recovery and disposal activities carried out by the program that will also provide a financial incentive for the recovery and emission-reducing management of refrigerants that are no longer of utility to a consumer; and

(c) Performance goals and operational standards for activities carried out by the program to collect, transport, and recycle, reuse, or dispose of refrigerants.

Sec. 15. RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended to read as follows:

(1) Any person who knowingly violates any of the provisions of this chapter or (~~chapter 70A.25 RCW, RCW 70A.45.080~~) chapters 70A.25 and 70A.--- (the new chapter created in section 20 of this act) RCW, or any ordinance, resolution, or regulation in force pursuant thereto is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for up to three hundred sixty-four days, or by both for each separate violation.

(2) Any person who negligently releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a gross misdemeanor and shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for up to three hundred sixty-four days, or both.

(3) Any person who knowingly releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a class C felony and shall, upon conviction, be punished by a fine of not less than fifty thousand dollars, or by imprisonment for not more than five years, or both.

(4) Any person who knowingly fails to disclose a potential conflict of interest under RCW 70A.15.2000 is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars.

Sec. 16. RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended to read as follows:

(1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, and in addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of this chapter, chapter 70A.25 ~~((~~0~~))~~, 70A.450, or 70A.--- (the new chapter created in section 20 of this act) RCW, ~~((RCW 70A.45.080,))~~ or any of the rules in force under such chapters or section may incur a civil penalty in an amount not to exceed ten thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

(b) Any person who fails to take action as specified by an order issued pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars for each day of continued noncompliance.

(2)(a) Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

(b) The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the state office of the economic and revenue forecast council.

(3) Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.

(4) ~~((AH))~~ (a) Except as provided in (b) of this subsection, all penalties recovered under this section by the department shall be paid into the state treasury and credited to the air pollution control account established in RCW 70A.15.1010 or, if recovered by the authority, shall be paid into the treasury of the authority and credited to its funds. If a prior penalty for the same violation has been paid to a local authority, the penalty imposed by the department under subsection (1) of this section shall be reduced by the amount of the payment.

(b) All penalties recovered for violations of chapter 70A.--- (the new chapter created in section 20 of this act) RCW must be paid into the state treasury and credited to the refrigerant emission management account created in section 12 of this act.

(5) To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.

(6) Public or private entities that are recipients or potential recipients of department grants, whether for air quality related activities or not, may have such grants rescinded or withheld by the department for failure to comply with provisions of this chapter.

(7) In addition to other penalties provided by this chapter, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(8) The department shall develop rules for excusing excess emissions from enforcement action if such excess emissions are unavoidable. The rules shall specify the criteria and procedures for the department and local air authorities to determine whether a period of excess emissions is excusable in accordance with the state implementation plan.

Sec. 17. RCW 19.285.040 and 2019 c 288 s 29 are each amended to read as follows:

(1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in the most recently published regional power plan as it existed on June 12, 2014, or a subsequent date as may be provided by the department or the commission by rule, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. Nothing in the rule adopted under this subsection precludes a qualifying utility from using its utility specific conservation measures, values, and assumptions in identifying its achievable cost-effective conservation potential. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

(b) Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period.

(c)(i) Except as provided in (c)(ii) and (iii) of this subsection, beginning on January 1, 2014, cost-effective conservation achieved by a qualifying utility in excess of its biennial acquisition target may be used to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty percent of any biennial target may be met with excess conservation savings.

(ii) Beginning January 1, 2014, a qualifying utility may use single large facility conservation savings in excess of its biennial target to meet up to an additional five percent of the immediately subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined. For the purposes of this subsection (1)(c)(ii), "single large facility conservation savings" means cost-effective conservation savings achieved in a single biennial period at the premises of a single customer of a qualifying utility whose annual electricity consumption prior to the conservation savings exceeded five average megawatts.

(iii) Beginning January 1, 2012, and until December 31, 2017, a qualifying utility with an industrial facility located in a county with a population between ninety-five thousand and one hundred fifteen thousand that is directly interconnected with electricity facilities that are capable of carrying electricity at transmission voltage may use cost-effective conservation from that industrial facility in excess of its biennial acquisition target to help meet the immediately

subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined.

(d) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output. The reduction in load due to high-efficiency cogeneration shall be: (i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine; and (ii) counted towards meeting the biennial conservation target in the same manner as other conservation savings.

(e) The commission may determine if a conservation program implemented by an investor-owned utility is cost-effective based on the commission's policies and practice.

(f) In addition to the requirements of RCW 19.280.030(3), in assessing the cost-effective conservation required under this section, a qualifying utility is encouraged to promote the adoption of air conditioning, as defined in section 2 of this act, with refrigerants not exceeding a global warming potential of 750 and the replacement of stationary refrigeration systems that contain ozone-depleting substances or hydrofluorocarbon refrigerants with a high global warming potential.

(g) The commission may rely on its standard practice for review and approval of investor-owned utility conservation targets.

(2)(a) Except as provided in (j) of this subsection, each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or any combination of them, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least fifteen percent of its load by January 1, 2020, and each year thereafter.

(b) A qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(c) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

(d) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than coal transition power or renewable resources other than on a daily spot price basis and the

electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

(e) A qualifying utility may use renewable energy credits to meet the requirements of this section, subject to the limitations of this subsection.

(i) A renewable energy credit from electricity generated by a resource other than freshwater may be used to meet a requirement applicable to the year in which the credit was created, the year before the year in which the credit was created, or the year after the year in which the credit was created.

(ii) A renewable energy credit from electricity generated by freshwater:

(A) May only be used to meet a requirement applicable to the year in which the credit was created; and

(B) Must be acquired by the qualifying utility through ownership of the generation facility or through a transaction that conveyed both the electricity and the nonpower attributes of the electricity.

(iii) A renewable energy credit transferred to an investor-owned utility pursuant to the Bonneville power administration's residential exchange program may not be used by any utility other than the utility receiving the credit from the Bonneville power administration.

(iv) Each renewable energy credit may only be used once to meet the requirements of this section and must be retired using procedures of the renewable energy credit tracking system.

(f) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; or

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090.

(g) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

(h)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

(i) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a

governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(j)(i) Beginning January 1, 2016, only a qualifying utility that owns or is directly interconnected to a qualified biomass energy facility may use qualified biomass energy to meet its compliance obligation under this subsection.

(ii) A qualifying utility may no longer use electricity and associated renewable energy credits from a qualified biomass energy facility if the associated industrial pulping or wood manufacturing facility ceases operation other than for purposes of maintenance or upgrade.

(k) An industrial facility that hosts a qualified biomass energy facility may only transfer or sell renewable energy credits associated with qualified biomass energy generated at its facility to the qualifying utility with which it is directly interconnected with facilities owned by such a qualifying utility and that are capable of carrying electricity at transmission voltage. The qualifying utility may only use an amount of renewable energy credits associated with qualified biomass energy that are equivalent to the proportionate amount of its annual targets under (a)(ii) and (iii) of this subsection that was created by the load of the industrial facility. A qualifying utility that owns a qualified biomass energy facility may not transfer or sell renewable energy credits associated with qualified biomass energy to another person, entity, or qualifying utility.

(l) Beginning January 1, 2020, a qualifying utility may use eligible renewable resources as identified under RCW 19.285.030(12) (g) and (h) to meet its compliance obligation under this subsection (2). A qualifying utility may not transfer or sell these eligible renewable resources to another utility for compliance purposes under this chapter.

(m) Beginning January 1, 2030, a qualifying utility is considered to be in compliance with an annual target in (a) of this subsection if the utility uses electricity from: (i) Renewable resources and renewable energy credits as defined in RCW 19.285.030; and (ii) nonemitting electric generation as defined in RCW 19.405.020, in an amount equal to one hundred percent of the utility's average annual retail electric load. Nothing in this subsection relieves the requirements of a qualifying utility to comply with subsection (1) of this section.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006.

Sec. 18. RCW 19.27A.220 and 2019 c 285 s 4 are each amended to read as follows:

(1) The department must establish a state energy performance standard early adoption incentive program consistent with the requirements of this section.

(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.

(4) An eligible building owner may receive an incentive payment in the amounts specified in subsection (6) of this section only if the following requirements are met:

(a) The building is either: (i) A covered commercial building subject to the requirements of the standard established under RCW 19.27A.210; or (ii) a multifamily residential building where the floor area exceeds fifty thousand gross square feet, excluding the parking garage area;

(b) The building's baseline energy use intensity exceeds its applicable energy use intensity target by at least fifteen energy use intensity units;

(c) At least one electric utility, gas company, or thermal energy company providing or delivering energy to the covered commercial building is participating in the incentive program by administering incentive payments as provided in RCW 19.27A.240; and

(d) The building owner complies with any other requirements established by the department.

(5)(a) An eligible building owner who meets the requirements of subsection (4) of this section may submit an application to the department for an incentive payment in a form and manner prescribed by the department. The application must be submitted in accordance with the following schedule:

(i) For a building with more than two hundred twenty thousand gross square feet, beginning July 1, 2021, through June 1, 2025;

(ii) For a building with more than ninety thousand gross square feet but less than two hundred twenty thousand and one gross square feet, beginning July 1, 2021, through June 1, 2026; and

(iii) For a building with more than fifty thousand gross square feet but less than ninety thousand and one gross square feet, beginning July 1, 2021, through June 1, 2027.

(b) The department must review each application and determine whether the applicant is eligible for the incentive program and if funds are available for the incentive payment within the limitation established in 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 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 cents per gross square foot of floor area, excluding parking, unconditioned, or semiconditioned spaces.

(7) The incentives provided in subsection (6) of this section are subject to the limitations and requirements of this section, including any rules or procedures implementing this section.

(8) The department must establish requirements for the verification of energy consumption by the building owner and each participating electric utility, gas company, and thermal energy company.

(9) The department must provide an administrative process for an eligible building owner to appeal a determination of an incentive eligibility or amount.

(10) By September 30, 2025, and every two years thereafter, the department must report to the appropriate committees of the legislature on the results of the incentive program under this section and may provide recommendations to improve the effectiveness of the program. 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 section 2 of this act.

(11) The department may adopt rules to implement this section.

Sec. 19. RCW 39.26.310 and 2019 c 284 s 9 are each amended to read as follows:

(1) The department shall establish purchasing and procurement policies that provide a preference for products that:

(a) Are not restricted under RCW (~~(70.235.080)~~) 70A.45.080 (as recodified by this act);

(b) Do not contain hydrofluorocarbons or contain hydrofluorocarbons with a comparatively low global warming potential;

(c) Are not designed to function only in conjunction with hydrofluorocarbons characterized by a comparatively high global warming potential; and

(d) Were not manufactured using hydrofluorocarbons or were manufactured using hydrofluorocarbons with a low global warming potential.

(2) No agency may knowingly purchase products that are not accorded a preference in the purchasing and procurement policies established by the department pursuant to subsection (1) of this section, unless there is no cost-effective and technologically feasible option that is accorded a preference.

(3) (~~Nothing in~~) The department shall establish a purchasing and procurement policy that provides a preference, in serving existing equipment, for a reclaimed refrigerant that meets the minimum quality requirement established in federal regulations adopted under 42 U.S.C. Sec. 7671(g).

~~(4)(a) Nothing in subsection (1) of this section requires the department or any other state agency to breach an existing contract or dispose of stock that has been ordered or is in the possession of the department or other state agency as of July 28, 2019.~~

~~((4)) (b) Nothing in subsection (3) of this section requires the department or any other state agency to breach an existing contract or dispose of stock that has been ordered or is in the possession of the department or other state agency as of July 28, 2021.~~

(5) By December 1, 2020, and each December 1st of even-numbered years thereafter, the department must submit a status report to the appropriate committees of the house of representatives and senate regarding the implementation and compliance of the department and state agencies with this section.

NEW SECTION. Sec. 20. Sections 1, 2, 8, 9, 11, and 12 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. Sec. 21. RCW 70A.45.080, 70A.15.6410, 70A.15.6420, and 70A.15.6430 are each recodified as sections in chapter 70A.--- RCW (the new chapter created in section 20 of this act).

NEW SECTION. **Sec. 22.** Section 8 of this act takes effect January 1, 2022.

NEW SECTION. **Sec. 23.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec. 24.** 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 April 12, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor May 17, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 316

[Engrossed Second Substitute Senate Bill 5126]

GREENHOUSE GAS EMISSIONS—CAP AND INVEST PROGRAM

AN ACT Relating to the Washington climate commitment act; amending RCW 70A.15.2200, 43.376.020, 43.21B.300, and 43.52A.040; reenacting and amending RCW 43.21B.110 and 70A.45.005; adding a new section to chapter 43.21C RCW; adding a new section to chapter 70A.15 RCW; adding a new section to chapter 70A.45 RCW; adding a new chapter to Title 70A RCW; creating new sections; prescribing penalties; providing a contingent effective date; and providing expiration dates.

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

NEW SECTION. **Sec. 1. FINDINGS AND INTENT.** (1) The legislature finds that climate change is one of the greatest challenges facing our state and the world today, an existential crisis with major negative impacts on environmental and human health. Washington is experiencing environmental and community impacts due to climate change through increasingly devastating wildfires, flooding, droughts, rising temperatures and sea levels, and ocean acidification. Greenhouse gas emissions already in the atmosphere will increase impacts for some period of time. Actions to increase resilience of our communities, natural resource lands, and ecosystems can prevent and reduce impacts to communities and our environment and improve their ability to recover.

(2) In 2020, the legislature updated the state's greenhouse gas emissions limits that are to be achieved by 2030, 2040, and 2050, based on current science and emissions trends, to support local and global efforts to avoid the most significant impacts from climate change. Meeting these limits will require coordinated, comprehensive, and multisectoral implementation of policies, programs, and laws, as other enacted policies are insufficient to meet the limits.

(3) The legislature further finds that while climate change is a global problem, there are communities that have historically borne the disproportionate impacts of environmental burdens and that now bear the disproportionate negative impacts of climate change. Although the state has done significant work in the past to highlight these environmental health disparities, beginning with senator Rosa Franklin's environmental equity study, and continuing through the work of the governor's interagency council on health disparities, the creation

of the Washington environmental health disparities map, and recommendations of the environmental justice task force, the state can do much more to ensure that state programs address environmental equity.

(4) The legislature further finds that while enacted carbon policies can be well-intended to reduce greenhouse gas emissions and provide environmental benefits to communities, the policies may not do enough to ensure environmental health disparities are reduced and environmental benefits are provided to those communities most impacted by environmental harms from greenhouse gas and air pollutant emissions.

(5) The legislature further finds that wildfires have become one of the largest sources of black carbon in the last five years. From 2014 through 2018, wildfires in Washington state generated 39,200,000 metric tons of carbon, the equivalent of more than 8,500,000 cars on the road a year. In 2015, when 1,130,000 acres burned in Washington, wildfires were the second largest source of greenhouse gas emissions releasing 17,975,112 metric tons of carbon dioxide into the atmosphere. Wildfire pollution affects all Washingtonians, but has disproportionate health effects on low-income communities, communities of color, and the most vulnerable of our population. Restoring the health of our forests and investing in wildfire prevention and preparedness will therefore contribute to improved air quality and improved public health outcomes.

(6) The legislature further finds that by exercising a leadership role in addressing climate change, Washington will position its economy, technology centers, financial institutions, and manufacturers to benefit from national and international efforts that must occur to reduce greenhouse gases. The legislature intends to create climate policy that recognizes the special nature of emissions-intensive, trade-exposed industries by minimizing leakage and increased life-cycle emissions associated with product imports. The legislature further finds that climate policies must be appropriately designed, in order to avoid leakage that results in net increases in global greenhouse gas emissions and increased negative impacts to those communities most impacted by environmental harms from climate change. The legislature further intends to encourage these industries to continue to innovate, find new ways to be more energy efficient, use lower carbon products, and be positioned to be global leaders in a low carbon economy.

(7) Under the program, the legislature intends to identify overburdened communities where the highest concentrations of criteria pollutants occur, determine the sources of those emissions and pollutants, and pursue significant reductions of emissions and pollutants in those communities. The legislature further intends for the department of ecology to conduct environmental justice assessments to ensure that funds and programs created under this chapter provide direct and meaningful benefits to vulnerable populations and overburdened communities. Additionally, the legislature intends to prevent job loss and provide protective measures if workers are adversely impacted by the transition to a clean energy economy through transition and assistance programs, worker-support projects, and workforce development and other activities designed to grow and expand the clean manufacturing sector in communities across Washington state. The legislature further intends to empower the environmental justice council established under RCW 70A.---- (section 20, chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141))

to provide recommendations for the development and implementation of the program, the distribution of funds, and the establishment of programs, activities, and projects to achieve environmental justice and environmental health goals. The legislature further intends for the department of ecology to create and adopt community engagement plans and tribal consultation frameworks in the administration of the program to ensure equitable practices for meaningful community and federally recognized tribal involvement. Finally, the legislature intends to establish this program to contribute to a healthy environment for all of Washington's communities.

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

(1) "Allowance" means an authorization to emit up to one metric ton of carbon dioxide equivalent.

(2) "Allowance price containment reserve" means an account maintained by the department with allowances available for sale through separate reserve auctions at predefined prices to assist in containing compliance costs for covered and opt-in entities in the event of unanticipated high costs for compliance instruments.

(3) "Annual allowance budget" means the total number of greenhouse gas allowances allocated for auction and distribution for one calendar year by the department.

(4) "Asset controlling supplier" means any entity that owns or operates interconnected electricity generating facilities or serves as an exclusive marketer for these facilities even though it does not own them, and has been designated by the department and received a department-published emissions factor for the wholesale electricity procured from its system. The department shall use a methodology consistent with the methodology used by an external greenhouse gas emissions trading program that shares the regional electricity transmission system. Electricity from an asset controlling supplier is considered a specified source of electricity.

(5) "Auction" means the process of selling greenhouse gas allowances by offering them up for bid, taking bids, and then distributing the allowances to winning bidders.

(6) "Auction floor price" means a price for allowances below which bids at auction are not eligible to be accepted.

(7) "Auction purchase limit" means the limit on the number of allowances one registered entity or a group of affiliated registered entities may purchase from the share of allowances sold at an auction.

(8) "Balancing authority" means the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a balancing authority area, and supports interconnection frequency in real time.

(9) "Balancing authority area" means the collection of generation, transmission, and load within the metered boundaries of a balancing authority. A balancing authority maintains load-resource balance within this area.

(10) "Best available technology" means a technology or technologies that will achieve the greatest reduction in greenhouse gas emissions, taking into account the fuels, processes, and equipment used by facilities to produce goods of comparable type, quantity, and quality. Best available technology must be

technically feasible, commercially available, economically viable, not create excessive environmental impacts, and be compliant with all applicable laws while not changing the characteristics of the good being manufactured.

(11) "Biomass" means nonfossilized and biodegradable organic material originating from plants, animals, and microorganisms, including products, by-products, residues, and waste from agriculture, forestry, and related industries as well as the nonfossilized and biodegradable organic fractions of industrial waste, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.

(12) "Biomass-derived fuels," "biomass fuels," or "biofuels" means fuels derived from biomass that have at least 40 percent lower greenhouse gas emissions based on a full life-cycle analysis when compared to petroleum fuels for which biofuels are capable as serving as a substitute.

(13) "Carbon dioxide equivalents" means a measure used to compare the emissions from various greenhouse gases based on their global warming potential.

(14) "Carbon dioxide removal" means deliberate human activities removing carbon dioxide from the atmosphere and durably storing it in geological, terrestrial, or ocean reservoirs, or in products. "Carbon dioxide removal" includes existing and potential anthropogenic enhancement of biological or geochemical sinks and including, but not limited to, carbon mineralization and direct air capture and storage.

(15) "Climate commitment" means the process and mechanisms to ensure a coordinated and strategic approach to advancing climate resilience and environmental justice and achieving an equitable and inclusive transition to a carbon neutral economy.

(16) "Climate resilience" is the ongoing process of anticipating, preparing for, and adapting to changes in climate and minimizing negative impacts to our natural systems, infrastructure, and communities. For natural systems, increasing climate resilience involves restoring and increasing the health, function, and integrity of our ecosystems and improving their ability to absorb and recover from climate-affected disturbances. For communities, increasing climate resilience means enhancing their ability to understand, prevent, adapt, and recover from climate impacts to people and infrastructure.

(17) "Closed facility" means a facility at which the current owner or operator has elected to permanently stop production and will no longer be an emissions source.

(18) "Compliance instrument" means an allowance or offset credit issued by the department or by an external greenhouse gas emissions trading program to which Washington has linked its greenhouse gas emissions cap and invest program. One compliance instrument is equal to one metric ton of carbon dioxide equivalent.

(19) "Compliance obligation" means the requirement to submit to the department the number of compliance instruments equivalent to a covered or opt-in entity's covered emissions during the compliance period.

(20) "Compliance period" means the four-year period for which the compliance obligation is calculated for covered entities.

(21) "Cost burden" means the impact on rates or charges to customers of electric utilities in Washington state for the incremental cost of electricity service

to serve load due to the compliance cost for greenhouse gas emissions caused by the program. Cost burden includes administrative costs from the utility's participation in the program.

(22) "Covered emissions" means the emissions for which a covered entity has a compliance obligation under section 10 of this act.

(23) "Covered entity" means a person that is designated by the department as subject to sections 8 through 24 of this act.

(24) "Cumulative environmental health impact" has the same meaning as provided in RCW 70A.---.--- (section 2, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)).

(25) "Curtailed facility" means a facility at which the owner or operator has temporarily suspended production but for which the owner or operator maintains operating permits and retains the option to resume production if conditions become amenable.

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

(27) "Electricity importer" means:

(a) For electricity that is scheduled with a NERC e-tag to a final point of delivery into a balancing authority area located entirely within the state of Washington, the electricity importer is identified on the NERC e-tag as the purchasing-selling entity on the last segment of the tag's physical path with the point of receipt located outside the state of Washington and the point of delivery located inside the state of Washington;

(b) For facilities physically located outside the state of Washington with the first point of interconnection to a balancing authority area located entirely within the state of Washington when the electricity is not scheduled on a NERC e-tag, the electricity importer is the facility operator or owner;

(c) For electricity imported through a centralized market, the electricity importer will be defined by rule consistent with the rules required under section 10(1)(c) of this act;

(d) For electricity from facilities allocated to serve retail electricity customers of a multijurisdictional electric company, the electricity importer is the multijurisdictional electric company;

(e) If the importer identified under (a) of this subsection is a federal power marketing administration over which the state of Washington does not have jurisdiction, and the federal power marketing administration has not voluntarily elected to comply with the program, then the electricity importer is the next purchasing-selling entity in the physical path on the NERC e-tag, or if no additional purchasing-selling entity over which the state of Washington has jurisdiction, then the electricity importer is the electric utility that operates the Washington transmission or distribution system, or the generation balancing authority;

(f) For electricity that is imported into the state by a federal power marketing administration and sold to a public body or cooperative customer or direct service industrial customer located in Washington pursuant to section 5(b) or (d) of the Pacific Northwest electric power planning and conservation act of 1980, P.L. 96-501, the electricity importer is the federal marketing administration;

(g) If the importer identified under (f) of this subsection has not voluntarily elected to comply with the program, then the electricity importer is the public body or cooperative customer or direct service industrial customer; or

(h) For electricity from facilities allocated to a consumer-owned utility inside the state of Washington from a multijurisdictional consumer-owned utility, the electricity importer is the consumer-owned utility inside the state of Washington.

(28) "Emissions containment reserve allowance" means a conditional allowance that is withheld from sale at an auction by the department or its agent to secure additional emissions reductions in the event prices fall below the emissions containment reserve trigger price.

(29) "Emissions containment reserve trigger price" means the price below which allowances will be withheld from sale by the department or its agent at an auction, as determined by the department by rule.

(30) "Emissions threshold" means the greenhouse gas emission level at or above which a person has a compliance obligation.

(31) "Environmental benefits" has the same meaning as defined in RCW 70A.--- (section 2, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)).

(32) "Environmental harm" has the same meaning as defined in RCW 70A.--- (section 2, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)).

(33) "Environmental impacts" has the same meaning as defined in RCW 70A.--- (section 2, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)).

(34) "Environmental justice" has the same meaning as defined in RCW 70A.--- (section 2, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)).

(35) "Environmental justice assessment" has the same meaning as identified in RCW 70A.--- (section 14, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)).

(36) "External greenhouse gas emissions trading program" means a government program, other than Washington's program created in this chapter, that restricts greenhouse gas emissions from sources outside of Washington and that allows emissions trading.

(37) "Facility" means any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control, that emits or may emit any greenhouse gas.

(38) "First jurisdictional deliverer" means the owner or operator of an electric generating facility in Washington or an electricity importer.

(39) "General market participant" means a registered entity that is not identified as a covered entity or an opt-in entity that is registered in the program registry and intends to purchase, hold, sell, or voluntarily retire compliance instruments.

(40) "Greenhouse gas" has the same meaning as in RCW 70A.45.010.

(41) "Holding limit" means the maximum number of allowances that may be held for use or trade by a registered entity at any one time.

(42) "Imported electricity" means electricity generated outside the state of Washington with a final point of delivery within the state.

(a) "Imported electricity" includes electricity from an organized market, such as the energy imbalance market.

(b) "Imported electricity" includes imports from linked jurisdictions, but such imports shall be construed as having no emissions.

(c) Electricity from a system that is marketed by a federal power marketing administration shall be construed as "imported electricity," not electricity generated in the state of Washington.

(d) "Imported electricity" does not include electricity imports of unspecified electricity that are netted by exports of unspecified electricity to any jurisdiction not covered by a linked program by the same entity within the same hour.

(e) For a multijurisdictional electric company, "imported electricity" means electricity, other than from in-state facilities, that contributes to a common system power pool. Where a multijurisdictional electric company has a cost allocation methodology approved by the utilities and transportation commission, the allocation of specific facilities to Washington's retail load will be in accordance with that methodology.

(f) For a multijurisdictional consumer-owned utility, "imported electricity" includes electricity from facilities that contribute to a common system power pool that are allocated to a consumer-owned utility inside the state of Washington pursuant to a methodology approved by the governing board of the consumer-owned utility.

(43) "Leakage" means a reduction in emissions of greenhouse gases within the state that is offset by a directly attributable increase in greenhouse gas emissions outside the state and outside the geography of another jurisdiction with a linkage agreement with Washington.

(44) "Limits" means the greenhouse gas emissions reductions required by RCW 70A.45.020.

(45) "Linkage" means a bilateral or multilateral decision under a linkage agreement between greenhouse gas market programs to accept compliance instruments issued by a participating jurisdiction to meet the obligations of regulated entities in a partner jurisdiction and to otherwise coordinate activities to facilitate operation of a joint market.

(46) "Linkage agreement" means a nonbinding agreement that connects two or more greenhouse gas market programs and articulates a mutual understanding of how the participating jurisdictions will work together to facilitate a connected greenhouse gas market.

(47) "Linked jurisdiction" means a jurisdiction with which Washington has entered into a linkage agreement.

(48) "Multijurisdictional consumer-owned utility" means a consumer-owned utility that provides electricity to member owners in Washington and in one or more other states in a contiguous service territory or from a common power system.

(49) "Multijurisdictional electric company" means an investor-owned utility that provides electricity to customers in Washington and in one or more other states in a contiguous service territory or from a common power system.

(50) "NERC e-tag" means North American electric reliability corporation (NERC) energy tag representing transactions on the North American bulk electricity market scheduled to flow between or across balancing authority areas.

(51) "Offset credit" means a tradable compliance instrument that represents an emissions reduction or emissions removal of one metric ton of carbon dioxide equivalent.

(52) "Offset project" means a project that reduces or removes greenhouse gases that are not covered emissions under this chapter.

(53) "Offset protocols" means a set of procedures and standards to quantify greenhouse gas reductions or greenhouse gas removals achieved by an offset project.

(54) "Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts or risks due to exposure to environmental pollutants or contaminants through multiple pathways, which may result in significant disparate adverse health outcomes or effects.

(a) "Overburdened community" includes, but is not limited to:

(i) Highly impacted communities as defined in RCW 19.405.020;

(ii) Communities located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151; and

(iii) Populations, including Native Americans or immigrant populations, who may be exposed to environmental contaminants and pollutants outside of the geographic area in which they reside based on the populations' use of traditional or cultural foods and practices, such as the use of resources, access to which is protected under treaty rights in ceded areas, when those exposures in conjunction with other exposures may result in disproportionately greater risks, including risks of certain cancers or other adverse health effects and outcomes.

(b) Overburdened communities identified by the department may include the same communities as those identified by the department through its process for identifying overburdened communities under RCW 70A.---.--- (section 2, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)).

(55) "Person" has the same meaning as defined in RCW 70A.15.2200(5)(h)(iii).

(56) "Point of delivery" means a point on the electricity transmission or distribution system where a deliverer makes electricity available to a receiver, or available to serve load. This point may be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system, or a distribution substation where electricity is imported into the state over a multijurisdictional retail provider's distribution system.

(57) "Price ceiling unit" means the units issued at a fixed price by the department for the purpose of limiting price increases and funding further investments in greenhouse gas reductions.

(58) "Program" means the greenhouse gas emissions cap and invest program created by and implemented pursuant to this chapter.

(59) "Program registry" means the data system in which covered entities, opt-in entities, and general market participants are registered and in which compliance instruments are recorded and tracked.

(60) "Registered entity" means a covered entity, opt-in entity, or general market participant that has completed the process for registration in the program registry.

(61) "Resilience" means the ability to prepare, mitigate and plan for, withstand, recover from, and more successfully adapt to adverse events and changing conditions, and reorganize in an equitable manner that results in a new and better condition.

(62) "Retire" means to permanently remove a compliance instrument such that the compliance instrument may never be sold, traded, or otherwise used again.

(63) "Specified source of electricity" or "specified source" means a facility, unit, or asset controlling supplier that is permitted to be claimed as the source of electricity delivered. The reporting entity must have either full or partial ownership in the facility or a written power contract to procure electricity generated by that facility or unit or from an asset controlling supplier at the time of entry into the transaction to procure electricity.

(64) "Supplier" means a supplier of fuel in Washington state as defined in RCW 70A.15.2200(5)(h)(ii).

(65) "Tribal lands" has the same meaning as defined in RCW 70A.---.--- (section 2, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)).

(66) "Unspecified source of electricity" or "unspecified source" means a source of electricity that is not a specified source at the time of entry into the transaction to procure electricity.

(67) "Voluntary renewable reserve account" means a holding account maintained by the department from which allowances may be retired for voluntary renewable electricity generation, which is directly delivered to the state and has not and will not be sold or used to meet any other mandatory requirements in the state or any other jurisdiction, on behalf of voluntary renewable energy purchasers or end users.

(68) "Vulnerable populations" has the same meaning as defined in RCW 70A.---.--- (section 2, chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)).

NEW SECTION. Sec. 3. ENVIRONMENTAL JUSTICE REVIEW. (1) To ensure that the program created in sections 8 through 24 of this act achieves reductions in criteria pollutants as well as greenhouse gas emissions in overburdened communities highly impacted by air pollution, the department must:

(a) Identify overburdened communities, which may be accomplished through the department's process to identify overburdened communities under chapter . . ., Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141);

(b) Deploy an air monitoring network in overburdened communities to collect sufficient air quality data for the 2023 review and subsequent reviews of criteria pollutant reductions conducted under subsection (2) of this section; and

(c)(i) Within the identified overburdened communities, analyze and determine which sources are the greatest contributors of criteria pollutants and develop a high priority list of significant emitters.

(ii) Prior to listing any entity as a high priority emitter, the department must notify that entity and share the data used to rank that entity as a high priority

emitter, and provide a period of not less than 60 days for the covered entity to submit more recent data or other information relevant to the designation of that entity as a high priority emitter.

(2)(a) Beginning in 2023, and every two years thereafter, the department must conduct a review to determine levels of criteria pollutants, as well as greenhouse gas emissions, in the overburdened communities identified under subsection (1) of this section. This review must also include an evaluation of initial and subsequent health impacts related to criteria pollution in overburdened communities. The department may conduct this evaluation jointly with the department of health.

(b) Once this review determines the levels of criteria pollutants in an identified overburdened community, then the department, in consultation with local air pollution control authorities, must:

(i) Establish air quality targets to achieve air quality consistent with whichever is more protective for human health:

(A) National ambient air quality standards established by the United States environmental protection agency; or

(B) The air quality experienced in neighboring communities that are not identified as overburdened;

(ii) Identify the stationary and mobile sources that are the greatest contributors of those emissions that are either increasing or not decreasing;

(iii) Achieve the reduction targets through adoption of emission control strategies or other methods;

(iv) Adopt, along with local air pollution control authorities, stricter air quality standards, emission standards, or emissions limitations on criteria pollutants, consistent with the authority of the department provided under RCW 70A.15.3000, and may consider alternative mitigation actions that would reduce criteria pollution by similar amounts; and

(v) After adoption of the stricter air quality standards, emission standards, or emissions limitations on criteria pollutants under (b)(iv) of this subsection, issue an enforceable order or the local air authority must issue an enforceable order, as authorized under section 35 of this act, as necessary to comply with the stricter standards or limitations and the requirements of this section. The department or local air authority must initiate the process, including provision of notice to all relevant affected permittees or registered sources and to the public, to adopt and implement an enforceable order required under this subsection within six months of the adoption of standards or limitations under (b)(iv) of this subsection.

(c) Actions imposed under this section may not impose requirements on a permitted stationary source that are disproportionate to the permitted stationary source's contribution to air pollution compared to other permitted stationary sources and other sources of criteria pollutants in the overburdened community.

(3) An eligible facility sited after the effective date of this section that receives allowances under section 13 of this act must mitigate increases in its emissions of particulate matter in overburdened communities.

(4)(a) The department must create and adopt a supplement to the department's community engagement plan developed pursuant to chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141). The supplement must describe how the department will engage with overburdened communities and vulnerable populations in:

- (i) Identifying emitters in overburdened communities; and
- (ii) Monitoring and evaluating criteria pollutant emissions in those areas.

(b) The community engagement plan must include methods for outreach and communication with those who face barriers, language or otherwise, to participation.

NEW SECTION. Sec. 4. ENVIRONMENTAL JUSTICE ASSESSMENT.

(1) Each year or biennium, as appropriate, when allocating funds from the carbon emissions reduction account created in section 27 of this act, the climate investment account created in section 28 of this act, or the air quality and health disparities improvement account created in section 31 of this act, or administering grants or programs funded by the accounts, agencies shall conduct an environmental justice assessment consistent with the requirements of RCW 70A.--- (section 14, chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)) and establish a minimum of not less than 35 percent and a goal of 40 percent of total investments that provide direct and meaningful benefits to vulnerable populations within the boundaries of overburdened communities through: (a) The direct reduction of environmental burdens in overburdened communities; (b) the reduction of disproportionate, cumulative risk from environmental burdens, including those associated with climate change; (c) the support of community led project development, planning, and participation costs; or (d) meeting a community need identified by the community that is consistent with the intent of this chapter or RCW 70A.--- (section 2, chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)).

(2) The allocation of funding under subsection (1) of this section must adhere to the following principles, additional to the requirements of RCW 70A.--- (section 16, chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)): (a) Benefits and programs should be directed to areas and targeted to vulnerable populations and overburdened communities to reduce statewide disparities; (b) investments and benefits should be made roughly proportional to the health disparities that a specific community experiences, with a goal of eliminating the disparities; (c) investments and programs should focus on creating environmental benefits, including eliminating health burdens, creating community and population resilience, and raising the quality of life of those in the community; and (d) efforts should be made to balance investments and benefits across the state and within counties, local jurisdictions, and unincorporated areas as appropriate to reduce disparities by location and to ensure efforts contribute to a reduction in disparities that exist based on race or ethnicity, socioeconomic status, or other factors.

(3) State agencies allocating funds or administering grants or programs from the carbon emissions reduction account created in section 27 of this act, the climate investment account created in section 28 of this act, or the air quality and health disparities improvement account created in section 31 of this act, must:

(a) Report annually to the environmental justice council created in RCW 70A.--- (section 20, chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)) regarding progress toward meeting environmental justice and environmental health goals;

(b) Consider recommendations by the environmental justice council; and

(c)(i) If the agency is not a covered agency subject to the requirements of chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141), create and adopt a community engagement plan to describe how it will engage with overburdened communities and vulnerable populations in allocating funds or administering grants or programs from the climate investment account.

(ii) The plan must include methods for outreach and communication with those who face barriers, language or otherwise, to participation.

NEW SECTION. **Sec. 5. ENVIRONMENTAL JUSTICE COUNCIL.** (1) The environmental justice council created in RCW 70A.--- (section 20, chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)) must provide recommendations to the legislature, agencies, and the governor in the development and implementation of the program established in sections 8 through 24 of this act, and the programs funded from the carbon emissions reduction account created in section 27 of this act and from the climate investment account created in section 28 of this act.

(2) In addition to the duties and authorities granted in chapter 70A.--- RCW (the new chapter created in section 22, chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141)) to the environmental justice council, the environmental justice council must:

(a) Provide recommendations to the legislature, agencies, and the governor in the development of:

(i) The program established in sections 8 through 24 of this act including, but not limited to, linkage with other jurisdictions, protocols for establishing offset projects and securing offset credits, designation of emissions-intensive and trade-exposed industries under section 13 of this act, and administration of allowances under the program; and

(ii) Investment plans and funding proposals for the programs funded from the climate investment account created in section 28 of this act for the purpose of providing environmental benefits and reducing environmental health disparities within overburdened communities;

(b) Provide a forum to analyze policies adopted under this chapter to determine if the policies lead to improvements within overburdened communities;

(c) Recommend procedures and criteria for evaluating programs, activities, or projects;

(d) Recommend copollutant emissions reduction goals in overburdened communities;

(e) Evaluate the level of funding provided to assist vulnerable populations, low-income individuals, and impacted workers and the funding of projects and activities located within or benefiting overburdened communities;

(f) Recommend environmental justice and environmental health goals for programs, activities, and projects funded from the climate investment account, and review agency annual reports on outcomes and progress toward meeting these goals;

(g) Provide recommendations to implementing agencies for meaningful consultation with vulnerable populations, including community engagement plans under sections 3 and 4 of this act; and

(h) Recommend how to support public participation through capacity grants for participation.

(3) For the purpose of performing the duties under subsection (2) of this section, two additional tribal members are added to the council.

****NEW SECTION. Sec. 6. TRIBAL CONSULTATION. (1) Agencies that allocate funding or administer grant programs appropriated from the climate investment account created in section 28 of this act must develop a consultation framework in coordination with tribal governments that includes best practices, protocols for communication, and collaboration with federally recognized tribes. Under this consultation framework, before allocating funding or administering grant programs appropriated from the climate investment account, agencies must offer consultation with federally recognized tribes on all funding decisions and programs that may impact, infringe upon, or impair the governmental efforts of federally recognized tribes to adopt or enforce their own standards governing or protecting the tribe's resources or other rights and interests in their tribal lands and lands within which a tribe or tribes possess rights reserved by treaty. The consultation is independent of any public participation process required by state law, or by a state agency, and regardless of whether the agency receives a request for consultation from a federally recognized tribe.***

(2)(a) If any funding decision, program, project, or activity that impacts lands within which a tribe or tribes possess rights reserved by federal treaty, statute, or executive order is undertaken or funded under this chapter without such consultation with a federally recognized tribe, an affected tribe may request that all further action on the decision, program, project, or activity cease until meaningful consultation with any directly impacted federally recognized tribe is completed.

(b) A project or activity funded in whole or in part from the account created in section 28 of this act must be paused or ceased in the event that an affected federally recognized Indian tribe or the department of archaeology and historic preservation provides timely notice of a determination to the department and any other agency responsible for the project or activity that the project will adversely impact cultural resources, archaeological sites, or sacred sites. A project or activity paused at the direction of the department under this subsection may not be resumed or completed unless the potentially impacted tribe provides consent to the department and the proponent of the project or activity.

**Sec. 6 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 7. GOVERNANCE STRUCTURE. (1) The governor shall establish a governance structure to implement the state's climate commitment under the authority provided under this chapter and other statutory authority to provide accountability for achieving the state's greenhouse gas limits in RCW 70A.45.020, to establish a coordinated and strategic statewide approach to climate resilience, to build an equitable and inclusive clean energy economy, and to ensure that the government provides clear policy and requirements, financial tools, and other mechanisms to support achieving those limits.

(2) The governance structure for implementing the state's climate commitment must:

(a) Be holistic and address the needs, challenges, and opportunities to meet the climate commitment;

(b) Address emission reductions from all relevant sectors and sources by ensuring that emitters are responsible for meeting targeted greenhouse gas reductions and that the government provides clear policy and requirements, financial tools, and other mechanisms to support achieving those reductions;

(c) Support an equitable transition for vulnerable populations and overburdened communities, including through early and meaningful engagement of overburdened communities and workers to ensure the program achieves equitable and just outcomes;

(d) Build increasing climate resilience for at-risk communities and ecosystems through cross-sectoral coordination, strategic planning, and cohesive policies; and

(e) Apply the most current, accurate, and complete scientific and technical information available to guide the state's climate actions and strategies.

(3) The governance structure for implementing the state's climate commitment must include, but not be limited to, the following elements:

(a) A strategic plan for aligning existing law, rules, policies, programs, and plans with the state's greenhouse gas limits, to the full extent allowed under existing authority;

(b) Common state policies, standards, and procedures for addressing greenhouse gas emissions and climate resilience, including grant and funding programs, infrastructure investments, and planning and siting decisions;

(c) A process for prioritizing and coordinating funding consistent with strategic needs for greenhouse gas reductions, equity and environmental justice, and climate resilience actions;

(d) An updated statewide strategy for addressing climate risks and improving resilience of communities and ecosystems;

(e) A comprehensive community engagement plan that addresses and mitigates barriers to engagement from vulnerable populations, overburdened communities, and other historically or currently marginalized groups; and

(f) An analysis of gaps and conflicts in state law and programs, with recommendations for improvements to state law.

(4) The governor's office shall develop policy and budget recommendations to the legislature necessary to implement the state's climate commitment by December 31, 2021, in accordance with the purpose, principles, and elements in subsections (1) through (3) of this section.

(5) Nothing in this section establishes or creates legal authority for the department or any other state agency to enact, adopt, issue an order, or in any way implement additional regulatory programs beyond what is provided for under this chapter and other statutes.

***NEW SECTION. Sec. 8. CAP ON GREENHOUSE GAS EMISSIONS.**

(1) In order to ensure that greenhouse gas emissions are reduced by covered entities consistent with the limits established in RCW 70A.45.020, the department must implement a cap on greenhouse gas emissions from covered entities and a program to track, verify, and enforce compliance through the use of compliance instruments.

(2) The program must consist of:

(a) Annual allowance budgets that limit emissions from covered entities, as provided in this section and sections 9 and 10 of this act;

(b) Defining those entities covered by the program, and those entities that may voluntarily opt into coverage under the program, as provided in this section and sections 9 and 10 of this act;

(c) Distribution of emission allowances, as provided in section 12 of this act, and through the allowance price containment provisions under sections 16 and 17 of this act;

(d) Providing for offset credits as a method for meeting a compliance obligation, pursuant to section 19 of this act;

(e) Defining the compliance obligations of covered entities, as provided in section 22 of this act;

(f) Establishing the authority of the department to enforce the program requirements, as provided in section 23 of this act;

(g) Creating a climate investment account for the deposit of receipts from the distribution of emission allowances, as provided in section 28 of this act;

(h) Providing for the transfer of allowances and recognition of compliance instruments, including those issued by jurisdictions with which Washington has linkage agreements;

(i) Providing monitoring and oversight of the sale and transfer of allowances by the department;

(j) Creating a price ceiling and associated mechanisms as provided in section 18 of this act; and

(k) Providing for the allocation of allowances to emissions-intensive, trade-exposed industries pursuant to section 13 of this act.

(3) The department shall consider opportunities to implement the program in a manner that allows linking the state's program with those of other jurisdictions. The department must evaluate whether such linkage will provide for a more cost-effective means for covered entities to meet their compliance obligations in Washington while recognizing the special characteristics of the state's economy, communities, and industries. The department is authorized to enter into a linkage agreement with another jurisdiction after conducting an environmental justice assessment and after formal notice and opportunity for a public hearing, and when consistent with the requirements of section 24 of this act.

(4) During the 2022 regular legislative session, the department must bring forth agency request legislation developed in consultation with emissions-intensive, trade-exposed businesses, covered entities, environmental advocates, and overburdened communities that outlines a compliance pathway specific to emissions-intensive, trade-exposed businesses for achieving their proportionate share of the state's emissions reduction limits through 2050.

(5) By December 1, 2027, and at least every four years thereafter and in compliance with RCW 43.01.036, the department must submit a report to the legislature that includes a comprehensive review of the implementation of the program to date, including but not limited to outcomes relative to the state's emissions reduction limits, overburdened communities, covered entities, and emissions-intensive, trade-exposed businesses. The department must transmit the report to the environmental justice council at the same time it is submitted to the legislature.

(6) The department must bring forth agency request legislation if the department finds that any provision of this chapter prevents linking Washington's cap and invest program with that of any other jurisdiction.

**Sec. 8 is partially vetoed. See message at end of chapter.*

***NEW SECTION. Sec. 9. ANNUAL ALLOWANCE BUDGET AND TIMELINES.** (1)(a) The department shall commence the program by January 1, 2023, by determining an emissions baseline establishing the proportionate share that the total greenhouse gas emissions of covered entities for the first compliance period bears to the total anthropogenic greenhouse gas emissions in the state during 2015 through 2019, based on data reported to the department under RCW 70A.15.2200 or provided as required by this chapter, as well as other relevant data. By October 1, 2022, the department shall adopt annual allowance budgets for the first compliance period of the program, calendar years 2023 through 2026, to be distributed from January 1, 2023, through December 31, 2026. If the first compliance period is delayed pursuant to section 22(7) of this act, the department shall adjust the annual allowance budgets to reflect a shorter first compliance period.

(b) By October 1, 2026, the department shall add to its emissions baseline by incorporating the proportionate share that the total greenhouse gas emissions of new covered entities in the second compliance period bear to the total anthropogenic greenhouse gas emissions in the state during 2023 through 2025. In determining the addition to the baseline, the department may exclude a year from the determination if the department identifies that year to have been an outlier due to a state of emergency. The department shall adopt annual allowance budgets for the second compliance period of the program, calendar years 2027 through 2030, that will be distributed from January 1, 2027, through December 31, 2030.

(c) By October 1, 2028, the department shall adopt by rule the annual allowance budgets for calendar years 2031 through 2040.

(2) The annual allowance budgets must be set to achieve the share of reductions by covered entities necessary to achieve the 2030, 2040, and 2050 statewide emissions limits established in RCW 70A.45.020, based on data reported to the department under chapter 70A.15 RCW or provided as required by this chapter. Annual allowance budgets must be set such that the use of offsets as compliance instruments, consistent with section 19 of this act, does not prevent the achievement of the emissions limits established in RCW 70A.45.020. In so setting annual allowance budgets, the department must reduce the annual allowance budget relative to the limits in an amount equivalent to offset use, or in accordance with a similar methodology adopted by the department. The department must adopt annual allowance budgets for the program on a calendar year basis that provide for progressively equivalent reductions year over year. An allowance distributed under the program, either directly by the department under sections 13 through 15 of this act or through auctions under section 12 of this act, does not expire and may be held or banked consistent with sections 12(6) and 17(1) of this act.

(3) The department must complete an evaluation by December 31, 2027, and by December 31, 2035, of the performance of the program, including its performance in reducing greenhouse gases. If the evaluation shows that adjustments to the annual allowance budgets are necessary for covered entities to

achieve their proportionate share of the 2030 and 2040 emission reduction limits identified in RCW 70A.45.020, as applicable, the department shall adjust the annual allowance budgets accordingly. The department must complete additional evaluations of the performance of the program by December 31, 2040, and by December 31, 2045, and make any necessary adjustments in the annual allowance budgets to ensure that covered entities achieve their proportionate share of the 2050 emission reduction limit identified in RCW 70A.45.020. Nothing in this subsection precludes the department from making additional adjustments to annual allowance budgets as necessary to ensure successful achievement of the proportionate emission reduction limits by covered entities. The department shall determine and make public the circumstances, metrics, and processes that would initiate the public consideration of additional allowance budget adjustments to ensure successful achievement of the proportionate emission reduction limits.

(4) Data reported to the department under RCW 70A.15.2200 or provided as required by this chapter for 2015 through 2019 is deemed sufficient for the purpose of adopting annual allowance budgets and serving as the baseline by which covered entities demonstrate compliance under the first compliance period of the program. Data reported to the department under RCW 70A.15.2200 or provided as required by this chapter for 2023 through 2025 is deemed sufficient for adopting annual allowance budgets and serving as the baseline by which covered entities demonstrate compliance under the second compliance period of the program.

(5) The legislature intends to promote a growing and sustainable economy and to avoid leakage of emissions from manufacturing to other jurisdictions. Therefore, the legislature finds that implementation of this section is contingent upon the enactment of section 13 of this act.

**Sec. 9 is partially vetoed. See message at end of chapter.*

NEW SECTION. Sec. 10. PROGRAM COVERAGE. (1) A person is a covered entity as of the beginning of the first compliance period and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 for any calendar year from 2015 through 2019, or if additional data provided as required by this chapter indicates that emissions for any calendar year from 2015 through 2019 equaled or exceeded any of the following thresholds, or if the person is a first jurisdictional deliverer and imports electricity into the state during the compliance period:

(a) Where the person owns or operates a facility and the facility's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent;

(b) Where the person is a first jurisdictional deliverer and generates electricity in the state and emissions associated with this generation equals or exceeds 25,000 metric tons of carbon dioxide equivalent;

(c) Where the person is a first jurisdictional deliverer importing electricity into the state and the cumulative annual total of emissions associated with the imported electricity, whether from specified or unspecified sources, exceeds 25,000 metric tons of carbon dioxide equivalent. In consultation with any linked jurisdiction to the program created by this chapter, by October 1, 2026, the department, in consultation with the department of commerce and the utilities and transportation commission, shall adopt by rule a methodology for addressing imported electricity associated with a centralized electricity market;

(d) Where the person is a supplier of fossil fuel other than natural gas and from that fuel 25,000 metric tons or more of carbon dioxide equivalent emissions would result from the full combustion or oxidation, excluding the amounts for fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington; and

(e)(i) Where the person supplies natural gas in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts for fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington, and excluding the amounts: (A) Supplied to covered entities under (a) through (d) of this subsection; and (B) delivered to opt-in entities;

(ii) Where the person who is not a natural gas company and has a tariff with a natural gas company to deliver to an end-use customer in the state in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts: (A) Supplied to covered entities under (a) through (d) of this subsection; and (B) the amounts delivered to opt-in entities;

(iii) Where the person is an end-use customer in the state who directly purchases natural gas from a person that is not a natural gas company and has the natural gas delivered through an interstate pipeline to a distribution system owned by the purchaser in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts: (A) Supplied to covered entities under (a) through (d) of this subsection; and (B) delivered to opt-in entities.

(2) A person is a covered entity as of the beginning of the second compliance period and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 or provided emissions data as required by this chapter for any calendar year from 2023 through 2025, where the person owns or operates a waste to energy facility utilized by a county and city solid waste management program and the facility's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent.

(3)(a) A person is a covered entity beginning January 1, 2031, and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 or provided emissions data as required by this chapter for any calendar year from 2027 through 2029, where the person owns or operates a:

(i) Landfill utilized by a county and city solid waste management program and the facility's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent; or

(ii) Railroad company, as that term is defined in RCW 81.04.010, and the railroad company's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent.

(b) Subsection (a) of this subsection does not apply to owners or operators of landfills that:

(i) Capture at least 75 percent of the landfill gas generated by the decomposition of waste using methods under 40 C.F.R. Part 98, Subpart HH - Municipal Solid Waste landfills, and subsequent updates; and

(ii) Operate a program, individually or through partnership with another entity, that results in the production of renewable natural gas or electricity from landfill gas generated by the facility.

(c) It is the intent of the legislature to adopt a greenhouse gas reduction policy specific to landfills. If such a policy is not enacted by January 1, 2030, the requirements of this subsection (3) take full effect.

(4) When a covered entity reports, during a compliance period, emissions from a facility under RCW 70A.15.2200 that are below the thresholds specified in subsection (1) or (2) of this section, the covered entity continues to have a compliance obligation through the current compliance period. When a covered entity reports emissions below the threshold for each year during an entire compliance period, or has ceased all processes at the facility requiring reporting under RCW 70A.15.2200, the entity is no longer a covered entity as of the beginning of the subsequent compliance period unless the department provides notice at least 12 months before the end of the compliance period that the facility's emissions were within 10 percent of the threshold and that the person will continue to be designated as a covered entity in order to ensure equity among all covered entities. Whenever a covered entity ceases to be a covered entity, the department shall notify the appropriate policy and fiscal committees of the legislature of the name of the entity and the reason the entity is no longer a covered entity.

(5) For types of emission sources described in subsection (1) of this section that begin or modify operation after January 1, 2023, and types of emission sources described in subsection (2) of this section that begin or modify operation after 2027, coverage under the program starts in the calendar year in which emissions from the source exceed the applicable thresholds in subsection (1) or (2) of this section, or upon formal notice from the department that the source is expected to exceed the applicable emissions threshold, whichever happens first. Sources meeting these conditions are required to transfer their first allowances on the first transfer deadline of the year following the year in which their emissions were equal to or exceeded the emissions threshold.

(6) For emission sources described in subsection (1) of this section that are in operation or otherwise active between 2015 and 2019 but were not required to report emissions for those years under RCW 70A.15.2200 for the reporting periods between 2015 and 2019, coverage under the program starts in the calendar year following the year in which emissions from the source exceed the applicable thresholds in subsection (1) of this section as reported pursuant to RCW 70A.15.2200 or provided as required by this chapter, or upon formal notice from the department that the source is expected to exceed the applicable emissions threshold for the first year that source is required to report emissions, whichever happens first. Sources meeting these criteria are required to transfer their first allowances on the first transfer deadline of the year following the year in which their emissions, as reported under RCW 70A.15.2200 or provided as required by this chapter, were equal to or exceeded the emissions threshold.

(7) The following emissions are exempt from coverage in the program, regardless of the emissions reported under RCW 70A.15.2200 or provided as required by this chapter:

(a) Emissions from the combustion of aviation fuels;

(b) Emissions from watercraft fuels supplied in Washington that are combusted outside of Washington;

(c) Emissions from a coal-fired electric generation facility exempted from additional greenhouse gas limitations, requirements, or performance standards under RCW 80.80.110;

(d) Carbon dioxide emissions from the combustion of biomass or biofuels;

(e)(i) Motor vehicle fuel or special fuel that is used exclusively for agricultural purposes by a farm fuel user. This exemption is available only if a buyer of motor vehicle fuel or special fuel provides the seller with an exemption certificate in a form and manner prescribed by the department. For the purposes of this subsection, "agricultural purposes" and "farm fuel user" have the same meanings as provided in RCW 82.08.865.

(ii) The department must determine a method for expanding the exemption provided under (e)(i) of this subsection to include fuels used for the purpose of transporting agricultural products on public highways. The department must maintain this expanded exemption for a period of five years, in order to provide the agricultural sector with a feasible transition period; and

(f) Emissions from facilities with North American industry classification system code 92811 (national security).

(8) The department shall not require multiple covered entities to have a compliance obligation for the same emissions. The department may by rule authorize refineries, fuel suppliers, facilities using natural gas, and natural gas utilities to provide by agreement for the assumption of the compliance obligation for fuel or natural gas supplied and combusted in the state. The department must be notified of such an agreement at least 12 months prior to the compliance obligation period for which the agreement is applicable.

(9)(a) The legislature intends to promote a growing and sustainable economy and to avoid leakage of emissions from manufacturing to other locations. The legislature further intends to see innovative new businesses locate and grow in Washington that contribute to Washington's prosperity and environmental objectives.

(b) Consistent with the intent of the legislature to avoid the leakage of emissions to other jurisdictions, in achieving the state's greenhouse gas limits in RCW 70A.45.020, the state, including lead agencies under chapter 43.21C RCW, shall pursue the limits in a manner that recognizes that the siting and placement of new or expanded best-in-class facilities with lower carbon emitting processes is in the economic and environmental interests of the state of Washington.

(c) In conducting a life-cycle analysis, if required, for new or expanded facilities that require review under chapter 43.21C RCW, a lead agency must evaluate and attribute any potential net cumulative greenhouse gas emissions resulting from the project as compared to other existing facilities or best available technology including best-in-class facilities and emerging lower carbon processes that supply the same product or end use. The department may adopt rules to determine the appropriate threshold for applying this analysis.

(d) Covered emissions from an entity that is or will be a covered entity under this chapter may not be the basis for denial of a permit for a new or expanded facility. Covered emissions must be included in the analysis undertaken pursuant to (c) of this subsection. Nothing in this subsection requires

a lead agency or a permitting agency to approve or issue a permit to a permit applicant, including to a new or expanded fossil fuel project.

(e) A lead agency under chapter 43.21C RCW or a permitting agency shall allow a new or expanded facility that is a covered entity or opt-in entity to satisfy a mitigation requirement for its covered emissions under this act and under any greenhouse gas emission mitigation requirements for covered emissions under chapter 43.21C RCW by submitting to the department the number of compliance instruments equivalent to its covered emissions during a compliance period.

NEW SECTION. Sec. 11. REQUIREMENTS. (1) All covered entities must register to participate in the program, following procedures adopted by the department by rule.

(2) Entities registering to participate in the program must describe any direct or indirect affiliation with other registered entities.

(3) A person responsible for greenhouse gas emissions that is not a covered entity may voluntarily participate in the program by registering as an opt-in entity. An opt-in entity must satisfy the same registration requirements as covered entities. Once registered, an opt-in entity is allowed to participate as a covered entity in auctions and must assume the same compliance obligation to transfer compliance instruments equal to their emissions at the appointed transfer dates. An opt-in entity may opt out of the program at the end of any compliance period by providing written notice to the department at least six months prior to the end of the compliance period. The opt-in entity continues to have a compliance obligation through the current compliance period. An opt-in entity is not eligible to receive allowances directly distributed under section 13, 14, or 15 of this act.

(4) A person that is not covered by the program and is not a covered entity or opt-in entity may voluntarily participate in the program as a general market participant. General market participants must meet all applicable registration requirements specified by rule.

(5) Federally recognized tribes and federal agencies may elect to participate in the program as opt-in entities or general market participants.

(6) The department shall use a secure, online electronic tracking system to: Register entities in the state program; issue compliance instruments; track ownership of compliance instruments; enable and record compliance instrument transfers; facilitate program compliance; and support market oversight.

(7) The department must use an electronic tracking system that allows two accounts to each covered or opt-in entity:

(a) A compliance account where the compliance instruments are transferred to the department for retirement. Compliance instruments in compliance accounts may not be sold, traded, or otherwise provided to another account or person.

(b) A holding account that is used when a registered entity is interested in trading allowances. Allowances in holding accounts may be bought, sold, transferred to another registered entity, or traded. The amount of allowances a registered entity may have in its holding account is constrained by the holding limit as determined by the department by rule. Information about the contents of each holding account, including but not limited to the number of allowances in the account, must be displayed on a regularly maintained and searchable public website established and updated by the department.

(8) Registered general market participants are each allowed an account, to hold, trade, sell, or transfer allowances.

(9) The department shall maintain an account for the purpose of retiring allowances transferred by registered entities and from the voluntary renewable reserve account.

(10) The department shall maintain a public roster of all covered entities, opt-in entities, and general market participants on the department's public website.

(11) The department shall include a voluntary renewable reserve account.

NEW SECTION. Sec. 12. AUCTIONS OF ALLOWANCES. (1) Except as provided in sections 13, 14, and 15 of this act, the department shall distribute allowances through auctions as provided in this section and in rules adopted by the department to implement these sections. An allowance is not a property right.

(2)(a) The department shall hold a maximum of four auctions annually, plus any necessary reserve auctions. An auction may include allowances from the annual allowance budget of the current year and allowances from the annual allowance budgets from prior years that remain to be distributed. The department must transmit to the environmental justice council an auction notice at least 60 days prior to each auction, as well as a summary results report and a postauction public proceeds report within 60 days after each auction. The department must communicate the results of the previous calendar year's auctions to the environmental justice council on an annual basis beginning in 2024.

(b) The department must make future vintage allowances available through parallel auctions at least twice annually in addition to the auctions through which current vintage allowances are exclusively offered under (a) of this subsection.

(3) The department shall engage a qualified, independent contractor to run the auctions. The department shall also engage a qualified financial services administrator to hold the bid guarantees, evaluate bid guarantees, and inform the department of the value of bid guarantees once the bids are accepted.

(4) Auctions are open to covered entities, opt-in entities, and general market participants that are registered entities in good standing. The department shall adopt by rule the requirements for a registered entity to register and participate in a given auction.

(a) Registered entities intending to participate in an auction must submit an application to participate at least 30 days prior to the auction. The application must include the documentation required for review and approval by the department. A registered entity is eligible to participate only after receiving a notice of approval by the department.

(b) Each registered entity that elects to participate in the auction must have a different representative. Only a representative with an approved auction account is authorized to access the auction platform to submit an application or confirm the intent to bid for the registered entity, submit bids on behalf of the registered entity during the bidding window, or to download reports specific to the auction.

(5) The department may require a bid guarantee, payable to the financial services administrator, in an amount greater than or equal to the sum of the maximum value of the bids to be submitted by the registered entity.

(6) To protect the integrity of the auctions, a registered entity or group of registered entities with a direct corporate association are subject to auction purchase and holding limits. The department may impose additional limits if it deems necessary to protect the integrity and functioning of the auctions:

(a) A covered entity or an opt-in entity may not buy more than 10 percent of the allowances offered during a single auction;

(b) A general market participant may not buy more than four percent of the allowances offered during a single auction and may not in aggregate own more than 10 percent of total allowances to be issued in a calendar year;

(c) No registered entity may buy more than the entity's bid guarantee; and

(d) No registered entity may buy allowances that would exceed the entity's holding limit at the time of the auction.

(7)(a) For fiscal year 2023, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) \$127,341,000 must first be deposited into the carbon emissions reduction account created in section 27 of this act; and (ii) the remaining auction proceeds to the climate investment account created in section 28 of this act and the air quality and health disparities improvement account created in section 31 of this act.

(b) For fiscal year 2024, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) \$356,697,000 must first be deposited into the carbon emissions reduction account created in section 27 of this act; and (ii) the remaining auction proceeds to the climate investment account created in section 28 of this act and the air quality and health disparities improvement account created in section 31 of this act.

(c) For fiscal year 2025, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) \$366,558,000 must first be deposited into the carbon emissions reduction account created in section 27 of this act; and (ii) the remaining auction proceeds to the climate investment account created in section 28 of this act and the air quality and health disparities improvement account created in section 31 of this act.

(d) For fiscal years 2026 through 2037, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) \$359,117,000 per year must first be deposited into the carbon emissions reduction account created in section 27 of this act; and (ii) the remaining auction proceeds to the climate investment account created in section 28 of this act and the air quality and health disparities improvement account created in section 31 of this act.

(e) The deposits into the carbon emissions reduction account pursuant to (a) through (d) of this subsection must not exceed \$5,200,000,000 over the first 16 years and any remaining auction proceeds must be deposited into the climate investment account created in section 28 of this act and the air quality and health disparities improvement account created in section 31 of this act.

(f) For fiscal year 2038 and each year thereafter, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) 50 percent of the auction proceeds to the carbon emissions reduction account created in section 27 of this act; and (ii) the remaining auction proceeds to the climate investment account created in section 28 of this act and the air quality and health disparities improvement account created in section 31 of this act.

(8) The department shall adopt by rule provisions to guard against bidder collusion and minimize the potential for market manipulation. A registered entity may not release or disclose any bidding information including: Intent to participate or refrain from participation; auction approval status; intent to bid; bidding strategy; bid price or bid quantity; or information on the bid guarantee provided to the financial services administrator. The department may cancel or restrict a previously approved auction participation application or reject a new application if the department determines that a registered entity has:

- (a) Provided false or misleading facts;
- (b) Withheld material information that could influence a decision by the department;
- (c) Violated any part of the auction rules;
- (d) Violated registration requirements; or
- (e) Violated any of the rules regarding the conduct of the auction.

(9) Any cancellation or restriction approved by the department under subsection (8) of this section may be permanent or for a specified number of auctions and the cancellation or restriction imposed is not exclusive and is in addition to the remedies that may be available pursuant to chapter 19.86 RCW or other state or federal laws, if applicable.

(10) The department shall design allowance auctions so as to allow, to the maximum extent practicable, linking with external greenhouse gas emissions trading programs in other jurisdictions and to facilitate the transfer of allowances when the state's program has entered into a linkage agreement with other external greenhouse gas emissions trading programs. The department may conduct auctions jointly with linked jurisdictions.

(11) In setting the number of allowances offered at each auction, the department shall consider the allowances in the marketplace due to the marketing of allowances issued as required under sections 13, 14, and 15 of this act in the department's determination of the number of allowances to be offered at auction. The department shall offer only such number of allowances at each auction as will enhance the likelihood of achieving the goals of RCW 70A.45.020.

***NEW SECTION. Sec. 13. ALLOCATION OF ALLOWANCES TO EMISSIONS-INTENSIVE, TRADE-EXPOSED INDUSTRIES.** (1) Facilities owned or operated by a covered entity must receive an allocation of allowances for the covered emissions at those facilities under this subsection at no cost if the operations of the facility are classified as emissions-intensive and trade-exposed, as determined by being engaged in one or more of the processes described by the following industry descriptions and codes in the North American industry classification system:

(a) Metals manufacturing, including iron and steel making, ferroalloy and primary metals manufacturing, secondary aluminum smelting and alloying, aluminum sheet, plate, and foil manufacturing, and smelting, refining, and alloying of other nonferrous metals, North American industry classification system codes beginning with 331;

(b) Paper manufacturing, including pulp mills, paper mills, and paperboard milling, North American industry classification system codes beginning with 322;

(c) Aerospace product and parts manufacturing, North American industry classification system codes beginning with 3364;

(d) Wood products manufacturing, North American industry classification system codes beginning with 321;

(e) Nonmetallic mineral manufacturing, including glass container manufacturing, North American industry classification system codes beginning with 327;

(f) Chemical manufacturing, North American industry classification system codes beginning with 325;

(g) Computer and electronic product manufacturing, including semiconductor and related device manufacturing, North American industry classification system codes beginning with 334;

(h) Food manufacturing, North American industry classification system codes beginning with 311;

(i) Cement manufacturing, North American industry classification system code 327310;

(j) Petroleum refining, North American industry classification system code 324110;

(k) Asphalt paving mixtures and block manufacturing from refined petroleum, North American industry classification system code 324121;

(l) Asphalt shingle and coating manufacturing from refined petroleum, North American industry classification system code 324122; and

(m) All other petroleum and coal products manufacturing from refined petroleum, North American industry classification system code 324199.

(2) By July 1, 2022, the department must adopt by rule objective criteria for both emissions' intensity and trade exposure for the purpose of identifying emissions-intensive, trade-exposed manufacturing businesses during the second compliance period of the program and subsequent compliance periods. A facility covered by subsection (1)(a) through (m) of this section is considered an emissions-intensive, trade-exposed facility and is eligible for allocation of no cost allowances as described in this section. In addition, any covered party that is a manufacturing business that can demonstrate to the department that it meets the objective criteria adopted by rule is also eligible for treatment as emissions-intensive, trade-exposed and is eligible for allocation of no cost allowances as described in this section. In developing the objective criteria under this subsection, the department must consider the locations of facilities potentially identified as emissions-intensive, trade-exposed manufacturing businesses relative to overburdened communities.

(3)(a) For the first compliance period beginning in January 1, 2023, the annual allocation of no cost allowances for direct distribution to a facility identified as emissions-intensive and trade-exposed must be equal to the

facility's baseline carbon intensity established using data from 2015 through 2019, or other data as allowed under this section, multiplied by the facility's actual production for each calendar year during the compliance period. For facilities using the mass-based approach, the allocation of no cost allowances shall be equal to the facility's mass-based baseline using data from 2015 through 2019, or other data as allowed under this section.

(b) For the second compliance period, beginning in January, 2027, and in each subsequent compliance period, the annual allocation of no cost allowances established in (a) of this subsection shall be adjusted according to the benchmark reduction schedules established in (b)(ii) and (iii) and (e) of this subsection multiplied by the facility's actual production during the period. The department shall adjust the no cost allocation of allowances and credits to an emissions-intensive and trade-exposed facility to avoid duplication with any no cost allowances transferred pursuant to sections 14 and 15 of this act, if applicable.

(i) For the purpose of this section, "carbon intensity" means the amount of carbon dioxide equivalent emissions from a facility in metric tons divided by the facility specific measure of production including, but not limited to, units of product manufactured or sold, over the same time interval.

(ii) If an emissions-intensive and trade-exposed facility is not able to feasibly determine a carbon intensity benchmark based on its unique circumstances, the entity may elect to use a mass-based baseline that does not vary based on changes in production volumes. The mass-based baseline must be based upon data from 2015 through 2019, unless the emissions-intensive, trade-exposed facility can demonstrate that there have been abnormal periods of operation that materially impacted the facility and the baseline period should be expanded to include years prior to 2015. For each year during the first four-year compliance period that begins January 1, 2023, these facilities must be awarded no cost allowances equal to 100 percent of the facility's mass-based baseline. For each year during the second four-year compliance period that begins January 1, 2027, these facilities must be awarded no cost allowances equal to 97 percent of the facility's mass-based baseline. For each year during the third compliance period that begins January 1, 2031, these facilities must be awarded no cost allowances equal to 94 percent of the facility's mass-based baseline. Except as provided in (b)(iii) of this subsection, if a facility elects to use a mass-based baseline, it may not later convert to a carbon intensity benchmark during the first three compliance periods.

(iii) A facility with a North American industry classification system code beginning with 3364 that is utilizing a mass-based baseline in (b)(ii) of this subsection must receive an additional no cost allowance allocation under this section in order to accommodate an increase in production that increases its emissions above the baseline on a basis equivalent in principle to those awarded to entities utilizing a carbon intensity benchmark pursuant to this subsection (3)(b). The department shall establish methods to award, for any annual period, additional no cost allowance allocations under this section and, if appropriate based on projected production, to achieve a similar ongoing result through the adjustment of the facility's mass-based baseline. An eligible facility under this subsection that has elected to use a mass-based baseline may not convert to a carbon intensity benchmark until the next compliance period.

(c)(i) By September 15, 2022, each emissions-intensive, trade-exposed facility shall submit its carbon intensity baseline for the first compliance period to the department. The carbon intensity baseline for the first compliance period must use data from 2015-2019, unless the emissions-intensive, trade-exposed facility can demonstrate that there have been abnormal periods of operation that materially impacted the facility and the baseline period should be expanded to include years prior to 2015.

(ii) By November 15, 2022, the department shall review and approve each emissions-intensive, trade-exposed facility's baseline carbon intensity for the first compliance period.

(d) During the first four-year compliance period that begins January 1, 2023, each emissions-intensive, trade-exposed facility must record its facility-specific carbon intensity baseline based on its actual production.

(e)(i) For the second four-year compliance period that begins January 1, 2027, the second period benchmark for each emissions-intensive, trade-exposed facility is three percent below the first period baseline specified in (a), (b), and (c) of this subsection.

(ii) For the third four-year compliance period that begins January 1, 2031, the third period benchmark for each emissions-intensive, trade-exposed facility is three percent lower than the second period benchmark.

(f) Prior to the beginning of either the second, third, or subsequent compliance periods, the department may make an upward adjustment in the next compliance period's benchmark for an emissions-intensive, trade-exposed facility based on the facility's demonstration to the department that additional reductions in carbon intensity or mass emissions are not technically or economically feasible. The department may base the upward adjustment applicable to an emissions-intensive, trade-exposed facility in the next compliance period on the facility's best available technology analysis. The department shall by rule provide for emissions-intensive, trade-exposed facilities to apply to the department for an adjustment to the allocation for direct distribution of no cost allowances based on its facility-specific carbon intensity benchmark or mass emissions baseline. The department shall make adjustments based on:

(i) A significant change in the emissions use or emissions attributable to the manufacture of an individual good or goods in this state by an emissions-intensive, trade-exposed facility based on a finding by the department that an adjustment is necessary to accommodate for changes in the manufacturing process that have a material impact on emissions;

(ii) Significant changes to an emissions-intensive, trade-exposed facility's external competitive environment that result in a significant increase in leakage risk; or

(iii) Abnormal operating periods when an emissions-intensive, trade-exposed facility's carbon intensity has been materially affected so that these abnormal operating periods are either excluded or otherwise considered in the establishment of the compliance period carbon intensity benchmarks.

(4)(a) By December 1, 2026, the department shall provide a report to the appropriate committees of the senate and house of representatives that describes alternative methods for determining the amount and a schedule of allowances to be provided to facilities owned or operated by each covered entity designated as

an emissions-intensive, trade-exposed facility from January 1, 2035, through January 1, 2050. The report must include a review of global best practices in ensuring against emissions leakage and economic harm to businesses in carbon pricing programs and describe alternative methods of emissions performance benchmarking and mass-based allocation of no cost allowances. At a minimum, the department must evaluate benchmarks based on both carbon intensity and mass, as well as the use of best available technology as a method for compliance. In developing the report, the department shall form an advisory group that includes representatives of the manufacturers listed in subsection (1) of this section.

(b) If the legislature does not adopt a compliance obligation for emissions-intensive, trade-exposed facilities by December 1, 2027, those facilities must continue to receive allowances as provided in the third four-year compliance period that begins January 1, 2031.

(5) If the actual emissions of an emissions-intensive, trade-exposed facility exceed the facility's no cost allowances assigned for that compliance period, it must acquire additional compliance instruments such that the total compliance instruments transferred to its compliance account consistent with section 22 of this act equals emissions during the compliance period. An emissions-intensive, trade-exposed facility must be allowed to bank unused allowances, including for future sale and investment in best available technology when economically feasible. The department shall limit the use of offset credits for compliance by an emissions-intensive, trade-exposed facility, such that the quantity of no cost allowances plus the provision of offset credits does not exceed 100 percent of the facility's total compliance obligation over a compliance period.

(6) The department must withhold or withdraw the relevant share of allowances allocated to a covered entity under this section in the event that the covered entity ceases production in the state and becomes a closed facility. In the event an entity curtails all production and becomes a curtailed facility, the allowances are retained but cannot be traded, sold, or transferred and are still subject to the emission reduction requirements specified in this section. An owner or operator of a curtailed facility may transfer the allowances to a new operator of the facility that will be operated under the same North American industry classification system codes. If the curtailed facility becomes a closed facility, then all unused allowances will be transferred to the emissions containment reserve. A curtailed facility is not eligible to receive free allowances during a period of curtailment. Any allowances withheld or withdrawn under this subsection must be transferred to the emissions containment reserve.

(7) An owner or operator of more than one facility receiving no cost allowances under this section may transfer allowances among the eligible facilities.

(8) Rules adopted by the department under this section must include protocols for allocating allowances at no cost to an eligible facility built after the effective date of this section. The protocols must include consideration of the products and criteria pollutants being produced by the facility, as well as the local environmental and health impacts associated with the facility. For a facility that is built on tribal lands or is determined by the department to impact tribal

lands and resources, the protocols must be developed in consultation with the affected tribal nations.

**Sec. 13 is partially vetoed. See message at end of chapter.*

NEW SECTION. Sec. 14. ALLOCATION OF ALLOWANCES TO ELECTRIC UTILITIES. (1) The legislature intends by this section to allow all consumer-owned electric utilities and investor-owned electric utilities subject to the requirements of chapter 19.405 RCW, the Washington clean energy transformation act, to be eligible for allowance allocation as provided in this section in order to mitigate the cost burden of the program on electricity customers.

(2)(a) By October 1, 2022, the department shall adopt rules, in consultation with the department of commerce and the utilities and transportation commission, establishing the methods and procedures for allocating allowances for consumer-owned and investor-owned electric utilities. The rules must take into account the cost burden of the program on electricity customers.

(b) By October 1, 2022, the department shall adopt an allocation schedule by rule, in consultation with the department of commerce and the utilities and transportation commission, for the first compliance period for the provision of allowances at no cost to consumer-owned and investor-owned electric utilities. This allocation must be consistent with a forecast, that is approved by the appropriate governing board or the utilities and transportation commission, of each utility's supply and demand, and the cost burden resulting from the inclusion of the covered entities in the first compliance period.

(c) By October 1, 2026, the department shall adopt an allocation schedule by rule, in consultation with the department of commerce and the utilities and transportation commission, for the provision of allowances for the second compliance period at no cost to consumer-owned and investor-owned electric utilities. This allocation must be consistent with a forecast, that is approved by the appropriate governing board or the utilities and transportation commission, of each utility's supply and demand, and the cost burden resulting from the inclusion of covered entities in the second compliance period. The allowances included in this schedule must reflect the increased scope of coverage in the electricity sector relative to the program budget of allowances established in 2022.

(d) By October 1, 2028, the department shall adopt an allocation schedule by rule, in consultation with the department of commerce and the utilities and transportation commission, for the provision of allowances at no cost to consumer-owned and investor-owned electric utilities for the compliance periods contained within calendar years 2031 through 2045. This allocation must be consistent with a forecast, that is approved by the appropriate governing board or the utilities and transportation commission, of each utility's supply and demand, and the cost burden resulting from the inclusion of the covered entities in the compliance periods. The rule developed under this subsection (2)(d) may prescribe an amount of allowances allocated at no cost that must be consigned to auction by consumer-owned and investor-owned electric utilities. However, utilities may use allowances for compliance equal to their covered emissions in any calendar year they were not subject to potential penalty under RCW 19.405.090. Under no circumstances may utilities receive any free allowances after 2045.

(3)(a) During the first compliance period, allowances allocated at no cost to consumer-owned and investor-owned electric utilities may be consigned to auction for the benefit of ratepayers, deposited for compliance, or a combination of both. The rules adopted by the department under subsection (2) of this section must include provisions for directing revenues generated under this subsection to the applicable utilities.

(b) By October 1, 2026, the department, in consultation with the department of commerce and the utilities and transportation commission, must adopt rules governing the amount of allowances allocated at no cost under subsection (2)(c) of this section that must be consigned to auction. For calendar year 2030, electric utilities may use allowances for compliance equal to their covered emissions if not subject to potential penalty under RCW 19.405.090.

(4) The benefits of all allowances consigned to auction under this section must be used by consumer-owned and investor-owned electric utilities for the benefit of ratepayers, with the first priority the mitigation of any rate impacts to low-income customers.

(5) If an entity is identified by the department as an emissions-intensive, trade-exposed industry under section 13 of this act, unless allowances have been otherwise allocated for electricity-related emissions to the entity under section 13 of this act or to a consumer-owned utility under this section, the department shall allocate allowances at no cost to the electric utility or power marketing administration that is providing electricity to the entity in an amount equal to the forecasted emissions for electricity consumption for the entity for the compliance period.

(6) The department shall allow for allowances to be transferred between a power marketing administration and electric utilities and used for direct compliance.

(7) Rules establishing the allocation of allowances to consumer-owned utilities and investor-owned utilities must consider the impact of electrification of buildings, transportation, and industry on the electricity sector.

(8) Nothing in this section affects the requirements of chapter 19.405 RCW.

(9) A consumer-owned utility that is party to a contract that meets the following conditions must be issued allowances under this section for emissions associated with imported electricity, in order to prevent impairment of the value of the contract to either party:

(a) The contract does not address compliance costs imposed upon the consumer-owned utility by the program created in this chapter; and

(b) The contract was in effect as of the effective date of this section and expires no later than the end of the first compliance period.

NEW SECTION. Sec. 15. ALLOCATION OF ALLOWANCES TO NATURAL GAS UTILITIES. (1) For the benefit of ratepayers, allowances must be allocated at no cost to covered entities that are natural gas utilities.

(a) By October 1, 2022, the department shall adopt rules, in consultation with the utilities and transportation commission, establishing the methods and procedures for allocating allowances to natural gas utilities. Rules adopted under this subsection must allow for a natural gas utility to be provided allowances at no cost to cover their emissions and decline proportionally with the cap, consistent with section 9 of this act. Allowances allocated at no cost to natural gas utilities must be consigned to auction for the benefit of ratepayers consistent

with subsection (2) of this section, deposited for compliance, or a combination of both. The rules adopted by the department pursuant to this section must include provisions directing revenues generated under this subsection to the applicable utilities.

(b) By October 1, 2022, the department shall adopt an allocation schedule by rule, in consultation with the utilities and transportation commission, for the first two compliance periods for the provision of allowances for the benefit of ratepayers at no cost to natural gas utilities.

(c) By October 1, 2028, the department shall adopt an allocation schedule by rule, in consultation with the utilities and transportation commission, for the provision of allowances for the benefit of ratepayers at no cost to natural gas utilities for the compliance periods contained within calendar years 2031 through 2040.

(2)(a) Beginning in 2023, 65 percent of the no cost allowances must be consigned to auction for the benefit of customers, including at a minimum eliminating any additional cost burden to low-income customers from the implementation of this chapter. Rules adopted under this subsection must increase the percentage of allowances consigned to auction by five percent each year until a total of 100 percent is reached.

(b) Revenues from allowances sold at auction must be returned by providing nonvolumetric credits on ratepayer utility bills, prioritizing low-income customers, or used to minimize cost impacts on low-income, residential, and small business customers through actions that include, but are not limited to, weatherization, decarbonization, conservation and efficiency services, and bill assistance. The customer benefits provided from allowances consigned to auction under this section must be in addition to existing requirements in statute, rule, or other legal requirements.

(c) Except for low-income customers, the customer bill credits under this subsection are reserved exclusively for customers at locations connected to a natural gas utility's system on the effective date of this section. Bill credits may not be provided to customers of the gas utility at a location connected to the system after the effective date of this section.

(3) In order to qualify for no cost allowances, covered entities that are natural gas utilities must provide copies of their greenhouse gas emissions reports filed with the United States environmental protection agency under 40 C.F.R. Part 98 subpart NN - suppliers of natural gas and natural gas liquids for calendar years 2015 through 2021 to the department on or before March 31, 2022. The copies of the reports must be provided in electronic form to the department, in a manner prescribed by the department. The reports must be complete and contain all information required by 40 C.F.R. Sec. 98.406 including, but not limited to, information on large end-users served by the natural gas utility. For any year where a natural gas utility was not required to file this report with the United States environmental protection agency, a report may be submitted in a manner prescribed by the department containing all of the information required in the subpart NN report.

(4) To continue receiving no cost allowances, a natural gas utility must provide to the department the United States environmental protection agency subpart NN greenhouse gas emissions report for each reporting year in the

manner and by the dates provided by RCW 70A.15.2200(5) as part of the greenhouse gas reporting requirements of this chapter.

NEW SECTION. Sec. 16. EMISSIONS CONTAINMENT RESERVE WITHHOLDING. (1) To help ensure that the price of allowances remains sufficient to incentivize reductions in greenhouse gas emissions, the department must establish an emissions containment reserve and set an emissions containment reserve trigger price by rule. The price must be set at a reasonable amount above the auction floor price and equal to the level established in jurisdictions with which the department has entered into a linkage agreement. In the event that a jurisdiction with which the department has entered into a linkage agreement has no emissions containment trigger price, the department shall suspend the trigger price under this subsection. The purpose of withholding allowances in the emissions containment reserve is to secure additional emissions reductions.

(2) In the event that the emissions containment reserve trigger price is met during an auction, the department must automatically withhold allowances as needed. The department must convert and transfer any allowances that have been withheld from auction into the emissions containment reserve account.

(3) Emissions containment reserve allowances may only be withheld from an auction if the demand for allowances would result in an auction clearing price that is less than the emissions containment reserve trigger price prior to the withholding from the auction of any emissions containment reserve allowances.

(4) The department shall transfer allowances to the emissions containment reserve in the following situations:

(a) No less than two percent of the total number of allowances available from the allowance budgets for calendar years 2023 through 2026;

(b) When allowances are unsold in auctions under section 12 of this act;

(c) When facilities curtail or close consistent with section 13(6) of this act;

or

(d) When facilities fall below the emissions threshold. The amount of allowances withdrawn from the program budget must be proportionate to the amount of emissions such a facility was previously using.

(5)(a) Allowances must be distributed from the emissions containment reserve by auction when new covered and opt-in entities enter the program.

(b) Allowances equal to the greenhouse gas emissions resulting from a new or expanded emissions-intensive, trade-exposed facility with emissions in excess of 25,000 metric tons per year during the first applicable compliance period will be provided to the facility from the reserve created in this section and must be retired by the facility. In subsequent compliance periods, the facility will be subject to the regulatory cap and related requirements under this chapter.

NEW SECTION. Sec. 17. ALLOWANCE PRICE CONTAINMENT. (1) To help minimize allowance price volatility in the auction, the department shall adopt by rule an auction floor price and a schedule for the floor price to increase by a predetermined amount every year. The department may not sell allowances at bids lower than the auction floor price. The department's rules must specify holding limits that determine the maximum number of allowances that may be held for use or trade by a registered entity at any one time. The department shall also establish an auction ceiling price to limit extraordinary prices and to

determine when to offer allowances through the allowance price containment reserve auctions authorized under this section.

(2) For calendar years 2023 through 2026, the department must place no less than two percent of the total number of allowances available from the allowance budgets for those years in an allowance price containment reserve. The reserve must be designed as a mechanism to assist in containing compliance costs for covered and opt-in entities in the event of unanticipated high costs for compliance instruments.

(3)(a) The department shall adopt rules for holding auctions of allowances from the price containment reserve when the settlement prices in the preceding auction approach the adopted auction ceiling price. The auction must be separate from auctions of other allowances.

(b) Allowances must also be distributed from the allowance price containment reserve by auction when new covered and opt-in entities enter the program and allowances in the emissions containment reserve under section 16 of this act are exhausted.

(4) Only covered and opt-in entities may participate in the auction of allowances from the allowance price containment reserve.

(5) The process for reserve auctions is the same as the process provided in section 12 of this act and the proceeds from reserve auctions must be treated the same.

(6) The department shall by rule:

(a) Set the reserve auction floor price in advance of the reserve auction. The department may choose to establish multiple price tiers for the allowances from the reserve;

(b) Establish the requirements and schedule for the allowance price containment reserve auctions; and

(c) Establish the amount of allowances to be placed in the allowance price containment reserve after the first compliance period ending in 2026.

NEW SECTION. Sec. 18. PRICE CEILING. (1) The department shall establish a price ceiling to provide cost protection for facilities obligated to comply with this chapter. The ceiling must be set at a level sufficient to facilitate investments to achieve further emission reductions beyond those enabled by the price ceiling, with the intent that investments accelerate the state's achievement of greenhouse gas limits established under RCW 70A.45.020. The price ceiling must increase annually in proportion to the price floor.

(2) In the event that no allowances remain in the allowance price containment reserve, the department must issue the number of price ceiling units for sale sufficient to provide cost protection for facilities as established under subsection (1) of this section. Purchases must be limited to entities that do not have sufficient eligible compliance instruments in their holding and compliance accounts for the next compliance period and these entities may only purchase what they need to meet their compliance obligation for the current compliance period. Price ceiling units may not be sold or transferred and must be retired for compliance in the current compliance period. A price ceiling unit is not a property right.

(3) Funds raised in connection with the sale of price ceiling units must be expended to achieve emissions reductions on at least a metric ton for metric ton basis that are real, permanent, quantifiable, verifiable, enforceable by the state,

and in addition to any greenhouse gas emission reduction otherwise required by law or regulation and any other greenhouse gas emission reduction that otherwise would occur.

***NEW SECTION. Sec. 19. OFFSETS.** (1) The department shall adopt by rule the protocols for establishing offset projects and securing offset credits that may be used to meet a portion of a covered or opt-in entity's compliance obligation under section 22 of this act. The protocols adopted by the department under this section must align with the policies of the state established under RCW 70A.45.090 and 70A.45.100.

(2) Offset projects must:

(a) Provide direct environmental benefits to the state or be located in a jurisdiction with which Washington has entered into a linkage agreement;

(b) Result in greenhouse gas reductions or removals that:

(i) Are real, permanent, quantifiable, verifiable, and enforceable; and

(ii) Are in addition to greenhouse gas emission reductions or removals otherwise required by law and other greenhouse gas emission reductions or removals that would otherwise occur; and

(c) Have been certified by a recognized registry after the effective date of this section or within two years prior to the effective date of this section.

(3)(a) A total of no more than five percent of a covered or opt-in entity's compliance obligation during the first compliance period may be met by transferring offset credits. During these years, at least 50 percent of a covered or opt-in entity's compliance obligation satisfied by offset credits must be sourced from offset projects that provide direct environmental benefits in the state.

(b) A total of no more than four percent of a covered or opt-in entity's compliance obligation during the second compliance period may be met by transferring offset credits. During these years, at least 75 percent of a covered or opt-in entity's compliance obligation satisfied by offset credits must be sourced from offset projects that provide direct environmental benefits in the state. The department may reduce the 75 percent requirement if it determines there is not sufficient offset supply in the state to meet offset demand during the second compliance period.

(c) The limits in (a) and (b) of this subsection may be modified by rule as adopted by the department when appropriate to ensure achievement of the proportionate share of statewide emissions limits established in RCW 70A.45.020 and to provide for alignment with other jurisdictions to which the state has linked.

(d) The limits in (a) and (b) of this subsection may be reduced for a specific covered or opt-in entity if the department determines, in consultation with the environmental justice council, that the covered or opt-in entity has or is likely to:

(i) Contribute substantively to cumulative air pollution burden in an overburdened community as determined by criteria established by the department, in consultation with the environmental justice council; or

(ii) Violate any permits required by any federal, state, or local air pollution control agency where the violation may result in an increase in emissions.

(e) An offset project on federally recognized tribal land does not count against the offset credit limits described in (a) and (b) of this subsection. No more than three percent of a covered or opt-in entity's compliance obligation may be met by transferring offset credits from projects on federally recognized

tribal land during the first compliance period. No more than two percent of a covered or opt-in entity's compliance obligation may be met by transferring offset credits from projects on federally recognized tribal land during the second compliance period.

(4) In adopting protocols governing offset projects and covered and opt-in entities' use of offset credits, the department shall:

(a) Take into consideration standards, rules, or protocols for offset projects and offset credits established by other states, provinces, and countries with programs comparable to the program established in this chapter;

(b) Encourage opportunities for the development of offset projects in this state by adopting offset protocols that may include, but need not be limited to, protocols that make use of aggregation or other mechanisms to reduce transaction costs related to the development of offset projects and that support the development of carbon dioxide removal projects;

(c) Adopt a process for monitoring and invalidating offset credits as necessary to ensure the credit reflects emission reductions or removals that continue to meet the standards required by subsection (1) of this section. If an offset credit is invalidated, the covered or opt-in entity must, within six months of the invalidation, transfer replacement credits or allowances to meet its compliance obligation. Failure to transfer the required credits or allowances is a violation subject to penalties as provided in section 23 of this act; and

(d) Make use of aggregation or other mechanisms, including cost-effective inventory and monitoring provisions, to increase the development of offset and carbon removal projects by landowners across the broadest possible variety of types and sizes of lands, including lands owned by small forestland owners.

(5) Any offset credits used may not be in addition to or allow for an increase in the emissions limits established under RCW 70A.45.020, as reflected in the annual allowance budgets developed under section 9 of this act.

(6) The offset credit must be registered and tracked as a compliance instrument.

(7) Beginning in 2031, the limits established in subsection (3) of this section apply unless modified by rule as adopted by the department after a public consultation process.

**Sec. 19 is partially vetoed. See message at end of chapter.*

NEW SECTION. Sec. 20. ASSISTANCE PROGRAM FOR OFFSETS ON TRIBAL LANDS. (1) In order to ensure that a sufficient number of high quality offset projects are available under the limits set in section 19 of this act, the department must establish an assistance program for offset projects on federally recognized tribal lands in Washington. The assistance may include, but is not limited to, funding or consultation for federally recognized tribal governments to assess a project's technical feasibility, investment requirements, development and operational costs, expected returns, administrative and legal hurdles, and project risks and pitfalls. The department may provide funding or assistance upon request by a federally recognized tribe.

(2) It is the intent of the legislature that not less than \$5,000,000 be provided in the biennial omnibus operating appropriations act for the purposes of this section.

NEW SECTION. Sec. 21. SMALL FORESTLAND OWNER WORK GROUP. (1) The department of natural resources must contract with an eligible

entity capable of providing public value to the state through the establishment and implementation of a small forestland owner work group. The purpose of the work group is to forward the goals and implementation of this chapter by identifying possible carbon market opportunities including, but not limited to, the provision of offset credits that qualify under section 19 of this act, and other incentive-based greenhouse gas reduction programs that Washington landowners may be able to access, including compliance markets operated by other jurisdictions, voluntary markets, and federal, state, and private programs for forestlands that can be leveraged to achieve carbon reductions.

(2) The work group established by the eligible entity under this section must:

(a) Provide recommendations for the implementation and funding of a pilot program to develop an aggregator account that will pursue carbon offset projects for small forestland owners in Washington state, including recommendations based on programs established in other jurisdictions;

(b) Coordinate with the department on the development of offset protocols related to landowners under section 19(4)(d) of this act;

(c) Develop a framework and funding proposals for establishing a program to link interested small forestland owners with incentive-based carbon reducing programs that facilitate adoption of forest practices that increase carbon storage and sequestration in forests and wood products. The framework may include:

(i) Identifying areas of coordination and layering among state, federal, and private landowner incentive programs and identifying roadblocks to better scalability;

(ii) Assisting landowners with access to feasibility analyses, market applications, stand inventories, pilot project support, and other services to reduce the transaction costs and barriers to entry to carbon markets or carbon incentive programs; and

(iii) Sharing information with private and other landowners about best practices employed to increase carbon storage and access to incentive programs; and

(d) Recommend policies to support the implementation of incentives for participation in carbon markets.

(3) The work group must transmit a final report to the department by December 1, 2022, that provides recommendations for incentives, the implementation of incentives, and payment structures necessary to support small forest landowners and any recommendations around extending the work group or making the work group permanent. The department must submit the final report to the legislature, in compliance with RCW 43.01.036, by December 31, 2022.

(4) For the purposes of this section, "eligible entity" means a nonprofit entity solely based in Washington that can demonstrate a membership of at least 1000 small forestland owners and that has, as part of its mission, the promotion of the sustainable stewardship of family forestlands.

(5) This section expires July 1, 2023.

****NEW SECTION. Sec. 22. COMPLIANCE OBLIGATIONS. (1) A covered or opt-in entity has a compliance obligation for its emissions during each four-year compliance period, with the first compliance period commencing January 1, 2023, except when the first compliance period***

commences at a later date as provided in subsection (7) of this section. A covered or opt-in entity shall transfer a number of compliance instruments equal to the entity's covered emissions by November 1st of each calendar year in which a covered or opt-in entity has a compliance obligation. The department shall set by rule a percentage of compliance instruments that must be transferred in each year of the compliance period such that covered or opt-in entities are allowed to smooth their compliance obligation within the compliance period but must fully satisfy their compliance obligation over the course of the compliance period, in a manner similar to external greenhouse gas emissions trading programs in other jurisdictions. In meeting a given compliance obligation, a covered or opt-in entity may use allowances issued in that compliance year, or allowances issued in any of the seven years immediately preceding that compliance year.

(2) Compliance occurs through the transfer of compliance instruments or price ceiling units, on or before the transfer date, from the holding account to the compliance account of the covered or opt-in entity as described in section 10 of this act.

(3)(a) A covered entity with a facility eligible for use of price ceiling units under section 18 of this act may substitute the submission of compliance instruments with price ceiling units.

(b) A covered or opt-in entity submitting insufficient compliance instruments to meet its compliance obligation is subject to a penalty as provided in section 23 of this act.

(4) Older vintage allowances must be retired before newer vintage allowances.

(5) A covered or opt-in entity may not borrow an allowance from a future allowance year to meet a current or past compliance obligation.

(6) Upon receipt by the department of all compliance instruments transferred by a covered entity or opt-in entity to meet its compliance obligation, the department shall retire the allowances or offset credits.

(7)(a) In order to coordinate and synchronize the cap and invest program established under this chapter with other transportation-related investments, this section does not take effect until a separate additive transportation revenue act becomes law, at which time the department of licensing must provide written notice to the chief clerk of the house of representatives, the secretary of the senate, and the office of the code reviser.

(b) For the purposes of this subsection, "additive transportation revenue act" means an act, enacted after April 1, 2021, in which the state fuel tax under RCW 82.38.030 is increased by an additional and cumulative tax rate of at least five cents per gallon of fuel.

**Sec. 22 was vetoed. See message at end of chapter.*

NEW SECTION. Sec. 23. ENFORCEMENT. (1) All covered and opt-in entities are required to submit compliance instruments in a timely manner to meet the entities' compliance obligations and shall comply with all requirements for monitoring, reporting, holding, and transferring emission allowances and other provisions of this chapter.

(2) If a covered or opt-in entity does not submit sufficient compliance instruments to meet its compliance obligation by the specified transfer dates, a penalty of four allowances for every one compliance instrument that is missing

must be submitted to the department within six months. When a covered entity or opt-in entity reasonably believes that it will be unable to meet a compliance obligation, the entity shall immediately notify the department. Upon receiving notification, the department shall issue an order requiring the entity to submit the penalty allowances.

(3) If a covered entity or opt-in entity fails to submit penalty allowances as required by subsection (2) of this section, the department must issue an order or issue a penalty of up to \$10,000 per day per violation, or both, for failure to submit penalty allowances as required by subsection (2) of the section. The order may include a plan and schedule for coming into compliance.

(4) The department may issue a penalty of up to \$50,000 per day per violation for violations of section 12(8) (a) through (e) of this act.

(5) Except as provided in subsections (3) and (4) of this section, any person that violates the terms of this chapter or an order issued under this chapter incurs a penalty of up to \$10,000 per day per violation for each day that the person does not comply. All penalties under subsections (3) and (4) of this section and this subsection must be deposited into the climate investment account created in section 28 of this act.

(6) Orders and penalties issued under this chapter are appealable to the pollution control hearings board under chapter 43.21B RCW.

(7) For the first compliance period, the department may reduce the amount of the penalty by adjusting the monetary amount or the number of penalty allowances described in subsections (2) and (3) of this section.

(8) An electric utility or natural gas utility must notify its retail customers and the environmental justice council in published form within three months of paying a monetary penalty under this section.

(9)(a) No city, town, county, township, or other subdivision or municipal corporation of the state may implement a charge or tax based exclusively upon the quantity of greenhouse gas emissions.

(b) No state agency may adopt or enforce a program that regulates greenhouse gas emissions from a stationary source except as provided in this chapter.

(c) This chapter preempts the provisions of chapter 173-442 WAC.

NEW SECTION. Sec. 24. LINKAGE WITH OTHER JURISDICTIONS.

(1) Subject to making the findings and conducting the public comment process described in subsection (3) of this section, the department shall seek to enter into linkage agreements with other jurisdictions with external greenhouse gas emissions trading programs in order to:

(a) Allow for the mutual use and recognition of compliance instruments issued by Washington and other linked jurisdictions;

(b) Broaden the greenhouse gas emission reduction opportunities to reduce the costs of compliance on covered entities and consumers;

(c) Enable allowance auctions to be held jointly and provide for the use of a unified tracking system for compliance instruments;

(d) Enhance market security;

(e) Reduce program administration costs; and

(f) Provide consistent requirements for covered entities whose operations span jurisdictional boundaries.

(2) The director of the department is authorized to execute linkage agreements with other jurisdictions with external greenhouse gas emissions trading programs consistent with the requirements in this chapter. A linkage agreement must cover the following:

(a) Provisions relating to regular, periodic auctions, including requirements for eligibility for auction participation, the use of a single auction provider to facilitate joint auctions, publication of auction-related information, processes for auction participation, purchase limits by auction participant type, bidding processes, dates of auctions, and financial requirements;

(b) Provisions related to holding limits to ensure no entities in any of the programs are disadvantaged relative to their counterparts in the other jurisdictions;

(c) Other requirements, such as greenhouse gas reporting and verification, offset protocols, criteria and process, and supervision and enforcement, to prevent fraud, abuse, and market manipulation;

(d) Common program registry, electronic auction platform, tracking systems for compliance instruments, and monitoring of compliance instruments;

(e) Provisions to ensure coordinated administrative and technical support;

(f) Provisions for public notice and participation; and

(g) Provisions to collectively resolve differences, amend the agreements, and delink or otherwise withdraw from the agreements.

(3) Before entering into a linkage agreement under this section, the department must evaluate and make a finding regarding whether the aggregate number of unused allowances in a linked program would reduce the stringency of Washington's program and the state's ability to achieve its greenhouse gas emissions reduction limits. The department must include in its evaluation a consideration of pre-2020 unused allowances that may exist in the program with which it is proposing to link. Before entering into a linkage agreement, the department must also establish a finding that the linking jurisdiction and the linkage agreement meet certain criteria identified under this subsection and conduct a public comment process to obtain input and a review of the linkage agreement by relevant stakeholders and other interested parties. The department must consider input received from the public comment process before finalizing a linkage agreement. In the event that the department determines that a full linkage agreement is unlikely to meet the criteria, it may enter into a linkage agreement with limitations, including limits on the share of compliance that may be met with allowances originating from linked jurisdictions and other limitations deemed necessary by the department. A linkage agreement approved by the department must:

(a) Achieve the purposes identified in subsection (1) of this section;

(b) Ensure that the linking jurisdiction has provisions to ensure the distribution of benefits from the program to vulnerable populations and overburdened communities;

(c) Be determined by the department to not yield net adverse impacts to either jurisdictions' highly impacted communities or analogous communities in the aggregate, relative to the baseline level of emissions; and

(d) Not adversely impact Washington's ability to achieve the emission reduction limits established in RCW 70A.45.020.

(4) The state retains all legal and policymaking authority over its program design and enforcement.

NEW SECTION. Sec. 25. RULES. The department shall adopt rules to implement the provisions of the program established in sections 8 through 24 of this act. The department may adopt emergency rules pursuant to RCW 34.05.350 for initial implementation of the program, to implement the state omnibus appropriations act for the 2021-2023 fiscal biennium, and to ensure that reporting and other program requirements are determined early for the purpose of program design and early notice to registered entities with a compliance obligation under the program.

NEW SECTION. Sec. 26. EXPENDITURE TARGETS. (1) It is the intent of the legislature that each year the total investments made through the carbon emissions reduction account created in section 27 of this act, the climate commitment account created in section 29 of this act, the natural climate solutions account created in section 30 of this act, and the air quality and health disparities improvement account created in section 31 of this act, achieve the following:

(a) A minimum of not less than 35 percent and a goal of 40 percent of total investments that provide direct and meaningful benefits to vulnerable populations within the boundaries of overburdened communities identified under chapter . . . , Laws of 2021 (Engrossed Second Substitute Senate Bill No. 5141); and

(b) In addition to the requirements of (a) of this subsection, a minimum of not less than 10 percent of total investments that are used for programs, activities, or projects formally supported by a resolution of an Indian tribe, with priority given to otherwise qualifying projects directly administered or proposed by an Indian tribe. An investment that meets the requirements of both this subsection (1)(b) and (a) of this subsection may count toward the minimum percentage targets for both subsections.

(2) The expenditure of moneys under this chapter must be consistent with applicable federal, state, and local laws, and treaty rights including, but not limited to, prohibitions on uses of funds imposed by the state Constitution.

(3) For the purposes of this section, "benefits" means investments or activities that:

(a) Reduce vulnerable population characteristics, environmental burdens, or associated risks that contribute significantly to the cumulative impact designation of highly impacted communities;

(b) Meaningfully protect an overburdened community from, or support community response to, the impacts of air pollution or climate change; or

(c) Meet a community need identified by vulnerable members of the community that is consistent with the intent of this chapter.

(4) The state must develop a process by which to evaluate the impacts of the investments made under this chapter, work across state agencies to develop and track priorities across the different eligible funding categories, and work with the environmental justice council pursuant to section 5 of this act.

(5) No expenditures may be made from the carbon emissions reduction account created in section 27 of this act, the climate investment account created in section 28 of this act, or the air quality and health disparities improvement

account created in section 31 of this act if, by April 1, 2023, the legislature has not considered and enacted request legislation brought forth by the department under section 8 of this act that outlines a compliance pathway specific to emissions-intensive, trade-exposed businesses for achieving their proportionate share of the state's emissions reduction limits through 2050.

NEW SECTION. Sec. 27. CARBON EMISSIONS REDUCTION ACCOUNT. The carbon emissions reduction account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account are intended to affect reductions in transportation sector carbon emissions through a variety of carbon reducing investments. These can include, but are not limited to: Transportation alternatives to single occupancy passenger vehicles; reductions in single occupancy passenger vehicle miles traveled; reductions in per mile emissions in vehicles, including through the funding of alternative fuel infrastructure and incentive programs; and emission reduction programs for freight transportation, including motor vehicles and rail, as well as for ferries and other maritime and port activities. Expenditures from the account may only be made for transportation carbon emission reducing purposes and may not be made for highway purposes authorized under the 18th Amendment of the Washington state Constitution, other than specified in this section. It is the legislature's intent that expenditures from the account used to reduce carbon emissions be made with the goal of achieving equity for communities that historically have been omitted or adversely impacted by past transportation policies and practices.

NEW SECTION. Sec. 28. CLIMATE INVESTMENT ACCOUNT. (1)(a) The climate investment account is created in the state treasury. Except as otherwise provided in this act, all receipts from the auction of allowances authorized in this chapter must be deposited into the account. Moneys in the account may be spent only after appropriation.

(b) Projects or activities funded from the account must meet high labor standards, including family sustaining wages, providing benefits including health care and employer-contributed retirement plans, career development opportunities, and maximize access to economic benefits from such projects for local workers and diverse businesses. Each contracting entity's proposal must be reviewed for equity and opportunity improvement efforts, including: (i) Employer paid sick leave programs; (ii) pay practices in relation to living wage indicators such as the federal poverty level; (iii) efforts to evaluate pay equity based on gender identity, race, and other protected status under Washington law; (iv) facilitating career development opportunities, such as apprenticeship programs, internships, job-shadowing, and on-the-job training; and (v) employment assistance and employment barriers for justice affected individuals.

(2) Moneys in the account may be used only for projects and programs that achieve the purposes of the greenhouse gas emissions cap and invest program established under this chapter. Moneys in the account as described in this subsection must first be appropriated for the administration of the requirements of this chapter, in an amount not to exceed five percent of the total receipt of funds from allowance auction proceeds under this chapter. Beginning July 1, 2024, and annually thereafter, the state treasurer shall distribute funds in the account as follows:

(a) Seventy-five percent of the moneys to the climate commitment account created in section 29 of this act; and

(b) Twenty-five percent of the moneys to the natural climate solutions account created in section 30 of this act.

(3) The allocations specified in subsection (2)(a) and (b) of this section must be reviewed by the legislature on a biennial basis based on the changing needs of the state in meeting its clean economy and greenhouse gas reduction goals in a timely, economically advantageous, and equitable manner.

NEW SECTION. Sec. 29. CLIMATE COMMITMENT ACCOUNT. (1) The climate commitment account is created in the state treasury. The account must receive moneys distributed to the account from the climate investment account created in section 28 of this act. Moneys in the account may be spent only after appropriation. Projects, activities, and programs eligible for funding from the account must be physically located in Washington state and include, but are not limited to, the following:

(a) Implementing the working families tax rebate in RCW 82.08.0206;

(b) Supplementing the growth management planning and environmental review fund established in RCW 36.70A.490 for the purpose of making grants or loans to local governments for the purposes set forth in RCW 43.21C.240, 43.21C.031, 36.70A.500, and 36.70A.600, for costs associated with RCW 36.70A.610, and to cover costs associated with the adoption of optional elements of comprehensive plans consistent with RCW 43.21C.420;

(c) Programs, activities, or projects that reduce and mitigate impacts from greenhouse gases and copollutants in overburdened communities, including strengthening the air quality monitoring network to measure, track, and better understand air pollution levels and trends and to inform the analysis, monitoring, and pollution reduction measures required in section 3 of this act;

(d) Programs, activities, or projects that deploy renewable energy resources, such as solar and wind power, and projects to deploy distributed generation, energy storage, demand-side technologies and strategies, and other grid modernization projects;

(e) Programs, activities, or projects that increase the energy efficiency or reduce greenhouse gas emissions of industrial facilities including, but not limited to, proposals to implement combined heat and power, district energy, or on-site renewables, such as solar and wind power, to upgrade the energy efficiency of existing equipment, to reduce process emissions, and to switch to less emissions intensive fuel sources;

(f) Programs, activities, or projects that achieve energy efficiency or emissions reductions in the agricultural sector including:

(i) Fertilizer management;

(ii) Soil management;

(iii) Bioenergy;

(iv) Biofuels;

(v) Grants, rebates, and other financial incentives for agricultural harvesting equipment, heavy-duty trucks, agricultural pump engines, tractors, and other equipment used in agricultural operations;

(vi) Grants, loans, or any financial incentives to food processors to implement projects that reduce greenhouse gas emissions;

(vii) Renewable energy projects;

(viii) Farmworker housing weatherization programs;

(ix) Dairy digester research and development;

(x) Alternative manure management; and

(xi) Eligible fund uses under RCW 89.08.615;

(g) Programs, activities, or projects that increase energy efficiency in new and existing buildings, or that promote low-carbon architecture, including use of newly emerging alternative building materials that result in a lower carbon footprint in the built environment over the life cycle of the building and component building materials;

(h) Programs, activities, or projects that promote the electrification and decarbonization of new and existing buildings, including residential, commercial, and industrial buildings;

(i) Programs, activities, or projects that improve energy efficiency, including district energy, and investments in market transformation of high efficiency electric appliances and equipment for space and water heating;

(j) Clean energy transition and assistance programs, activities, or projects that assist affected workers or people with lower incomes during the transition to a clean energy economy, or grow and expand clean manufacturing capacity in communities across Washington state including, but not limited to:

(i) Programs, activities, or projects that directly improve energy affordability and reduce the energy burden of people with lower incomes, as well as the higher transportation fuel burden of rural residents, such as bill assistance, energy efficiency, and weatherization programs;

(ii) Community renewable energy projects that allow qualifying participants to own or receive the benefits of those projects at reduced or no cost;

(iii) Programs, activities, or other worker-support projects for bargaining unit and nonsupervisory fossil fuel workers who are affected by the transition away from fossil fuels to a clean energy economy. Worker support may include, but is not limited to: (A) Full wage replacement, health benefits, and pension contributions for every worker within five years of retirement; (B) full wage replacement, health benefits, and pension contributions for every worker with at least one year of service for each year of service up to five years of service; (C) wage insurance for up to five years for workers reemployed who have more than five years of service; (D) up to two years of retraining costs, including tuition and related costs, based on in-state community and technical college costs; (E) peer counseling services during transition; (F) employment placement services, prioritizing employment in the clean energy sector; and (G) relocation expenses;

(iv) Direct investment in workforce development, via technical education, community college, institutions of higher education, apprenticeships, and other programs including, but not limited to:

(A) Initiatives to develop a forest health workforce established under RCW 76.04--- (section 5, chapter . . . , Laws of 2021 (Second Substitute House Bill No. 1168)); and

(B) Initiatives to develop new education programs, emerging fields, or jobs pertaining to the clean energy economy;

(v) Transportation, municipal service delivery, and technology investments that increase a community's capacity for clean manufacturing, with an emphasis on communities in greatest need of job creation and economic development and potential for commute reduction;

(k) Programs, activities, or projects that reduce emissions from landfills and waste-to-energy facilities through diversion of organic materials, methane capture or conversion strategies, or other means;

(l) Carbon dioxide removal projects, programs, and activities; and

(m) Activities to support efforts to mitigate and adapt to the effects of climate change affecting Indian tribes, including capital investments in support of the relocation of Indian tribes located in areas at heightened risk due to anticipated sea level rise, flooding, or other disturbances caused by climate change. The legislature intends to dedicate at least \$50,000,000 per biennium from the account for purposes of this subsection.

(2) Moneys in the account may not be used for projects or activities that would violate tribal treaty rights or result in significant long-term damage to critical habitat or ecological functions. Investments from this account must result in long-term environmental benefits and increased resilience to the impacts of climate change.

NEW SECTION. Sec. 30. NATURAL CLIMATE SOLUTIONS ACCOUNT. (1) The natural climate solutions account is created in the state treasury. All moneys directed to the account from the climate investment account created in section 28 of this act must be deposited in the account. Moneys in the account may be spent only after appropriation. Moneys in the account are intended to increase the resilience of the state's waters, forests, and other vital ecosystems to the impacts of climate change, conserve working forestlands at risk of conversion, and increase their carbon pollution reduction capacity through sequestration, storage, and overall system integrity. Moneys in the account must be spent in a manner that is consistent with existing and future assessments of climate risks and resilience from the scientific community and expressed concerns of and impacts to overburdened communities.

(2) Moneys in the account may be allocated for the following purposes:

(a) Clean water investments that improve resilience from climate impacts. Funding under this subsection (2)(a) must be used to:

(i) Restore and protect estuaries, fisheries, and marine shoreline habitats and prepare for sea level rise including, but not limited to, making fish passage correction investments such as those identified in the cost-share barrier removal program for small forestland owners created in RCW 76.13.150 and those that are considered by the fish passage barrier removal board created in RCW 77.95.160;

(ii) Increase carbon storage in the ocean or aquatic and coastal ecosystems;

(iii) Increase the ability to remediate and adapt to the impacts of ocean acidification;

(iv) Reduce flood risk and restore natural floodplain ecological function;

(v) Increase the sustainable supply of water and improve aquatic habitat, including groundwater mapping and modeling;

(vi) Improve infrastructure treating stormwater from previously developed areas within an urban growth boundary designated under chapter 36.70A RCW, with a preference given to projects that use green stormwater infrastructure;

(vii) Either preserve or increase, or both, carbon sequestration and storage benefits in forests, forested wetlands, agricultural soils, tidally influenced agricultural or grazing lands, or freshwater, saltwater, or brackish aquatic lands;

or

(viii) Either preserve or establish, or both, carbon sequestration by protecting or planting trees in marine shorelines and freshwater riparian areas sufficient to promote climate resilience, protect cold water fisheries, and achieve water quality standards;

(b) Healthy forest investments to improve resilience from climate impacts. Funding under this subsection (2)(b) must be used for projects and activities that will:

(i) Increase forest and community resilience to wildfire in the face of increased seasonal temperatures and drought;

(ii) Improve forest health and reduce vulnerability to changes in hydrology, insect infestation, and other impacts of climate change; or

(iii) Prevent emissions by preserving natural and working lands from the threat of conversion to development or loss of critical habitat, through actions that include, but are not limited to, the creation of new conservation lands, community forests, or increased support to small forestland owners through assistance programs including, but not limited to, the forest riparian easement program and the family forest fish passage program. It is the intent of the legislature that not less than \$10,000,000 be expended each biennium for the forestry riparian easement program created in chapter 76.13 RCW or for riparian easement projects funded under the agricultural conservation easements program established under RCW 89.08.530, or similar riparian enhancement programs.

(3) Moneys in the account may not be used for projects that would violate tribal treaty rights or result in significant long-term damage to critical habitat or ecological functions. Investments from this account must result in long-term environmental benefits and increased resilience to the impacts of climate change.

NEW SECTION. Sec. 31. AIR QUALITY AND HEALTH DISPARITIES IMPROVEMENT ACCOUNT. (1) The air quality and health disparities improvement account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account are intended to:

(a) Improve air quality through the reduction of criteria pollutants, including through effective air quality monitoring and the establishment of adequate baseline emissions data; and

(b) Reduce health disparities in overburdened communities by improving health outcomes through the reduction or elimination of environmental harms and the promotion of environmental benefits.

(2) Moneys in the account may be used for either capital budget or transportation budget purposes, or both. Moneys in the account may not be used for projects that would violate tribal treaty rights or result in significant long-term damage to critical habitat or ecological functions. Investments from the account must result in long-term environmental benefits and increased resilience to the impacts of climate change.

(3) It is the intent of the legislature that not less than \$20,000,000 per biennium be dedicated to the account for the purposes of the account.

NEW SECTION. Sec. 32. (1) By December 1, 2029, the joint legislative audit and review committee must analyze the impacts of the initial five years of program implementation and must submit a report summarizing the analysis to

the legislature. The analysis must include, at minimum, the following components:

(a) Costs and benefits, including environmental and public health costs and benefits, associated with this chapter for categories of persons participating in the program or that are most impacted by air pollution, as defined in consultation with the departments of ecology and health and as measured on a census tract scale. This component of the analysis must, at a minimum, assess the costs and benefits of changes in the following metrics since the start of the program:

(i) Levels of greenhouse gas emissions and criteria air pollutants for which the United States environmental protection agency has established national ambient air quality standards;

(ii) Fuel prices; and

(iii) Total employment in categories of industries that are covered entities. The categories of industries assessed must include, but are not limited to, electric utilities, natural gas utilities, oil refineries, and other industries classified as emissions-intensive and trade-exposed;

(b) An evaluation of the information provided by the department in its 2027 program evaluation under section 9(3) of this act;

(c) A summary of the estimated total statewide costs and benefits attributable to the program, including state agency administrative costs and covered entity compliance costs. For purposes of calculating the benefits of the program, the summary may rely, in part, on a constant value of the social costs attributable to greenhouse gas emissions, as identified in contemporary internationally accepted estimates of such global social cost. This summary must include an estimate of the total statewide costs of the program per ton of greenhouse gas emissions reductions achieved by the program; and

(d) An evaluation of the impacts of the program on low-income households.

(2) This section expires June 30, 2030.

Sec. 33. RCW 70A.15.2200 and 2020 c 20 s 1090 are each amended to read as follows:

(1) The board of any activated authority or the department, may classify air contaminant sources, by ordinance, resolution, rule or regulation, which in its judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which cause or contribute to air pollution, and may require registration or reporting or both for any such class or classes. Classifications made pursuant to this section may be for application to the area of jurisdiction of such authority, or the state as a whole or to any designated area within the jurisdiction, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(2) Except as provided in subsection (3) of this section, any person operating or responsible for the operation of air contaminant sources of any class for which the ordinances, resolutions, rules or regulations of the department or board of the authority, require registration or reporting shall register therewith and make reports containing information as may be required by such department or board concerning location, size and height of contaminant outlets, processes employed, nature of the contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled. In the case of emissions of greenhouse gases as defined in RCW 70A.45.010 the department shall adopt rules requiring reporting of those emissions. The

department or board may require that such registration or reporting be accompanied by a fee, and may determine the amount of such fee for such class or classes: PROVIDED, That the amount of the fee shall only be to compensate for the costs of administering such registration or reporting program which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering or other reliable analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program: PROVIDED FURTHER, That any such registration made with either the board or the department shall preclude a further registration and reporting with any other board or the department, except that emissions of greenhouse gases as defined in RCW 70A.45.010 must be reported as required under subsection (5) of this section.

All registration program and reporting fees collected by the department shall be deposited in the air pollution control account. All registration program fees collected by the local air authorities shall be deposited in their respective treasuries.

(3) If a registration or report has been filed for a grain warehouse or grain elevator as required under this section, registration, reporting, or a registration program fee shall not, after January 1, 1997, again be required under this section for the warehouse or elevator unless the capacity of the warehouse or elevator as listed as part of the license issued for the facility has been increased since the date the registration or reporting was last made. If the capacity of the warehouse or elevator listed as part of the license is increased, any registration or reporting required for the warehouse or elevator under this section must be made by the date the warehouse or elevator receives grain from the first harvest season that occurs after the increase in its capacity is listed in the license.

This subsection does not apply to a grain warehouse or grain elevator if the warehouse or elevator handles more than ten million bushels of grain annually.

(4) For the purposes of subsection (3) of this section:

(a) A "grain warehouse" or "grain elevator" is an establishment classified in standard industrial classification (SIC) code 5153 for wholesale trade for which a license is required and includes, but is not limited to, such a licensed facility that also conducts cleaning operations for grain;

(b) A "license" is a license issued by the department of agriculture licensing a facility as a grain warehouse or grain elevator under chapter 22.09 RCW or a license issued by the federal government licensing a facility as a grain warehouse or grain elevator for purposes similar to those of licensure for the facility under chapter 22.09 RCW; and

(c) "Grain" means a grain or a pulse.

(5)(a) The department shall adopt rules requiring persons to report emissions of greenhouse gases as defined in RCW 70A.45.010 where those

emissions from a single facility, ~~((source, or site,))~~ or from electricity or fossil fuels sold in Washington by a single supplier or local distribution company, meet or exceed ten thousand metric tons of carbon dioxide equivalent annually. The ~~((department may phase in the requirement to report greenhouse gas emissions until the reporting threshold in this subsection is met, which must occur by January 1, 2012))~~ rules adopted by the department must support implementation of the program created in section 8 of this act. In addition, the rules must require that:

(i) Emissions of greenhouse gases resulting from the combustion of fossil fuels be reported separately from emissions of greenhouse gases resulting from the combustion of biomass; and

(ii) ~~((Reporting will start in 2010 for 2009 emissions.))~~ Each annual report must include emissions data for the preceding calendar year and must be submitted to the department by ~~((October))~~ March 31st of the year in which the report is due. ~~((However, starting in 2011, a person who is required to report greenhouse gas emissions to the United States environmental protection agency under 40 C.F.R. Part 98, as adopted on September 22, 2009, must submit the report required under this section to the department concurrent with the submission to the United States environmental protection agency. Except as otherwise provided in this section, the data for emissions in Washington and any corrections thereto that are reported to the United States environmental protection agency must be the emissions data reported to the department; and~~

~~((iii) Emissions of carbon dioxide associated with the complete combustion or oxidation of liquid motor vehicle fuel, special fuel, or aircraft fuel that is sold in Washington where the annual emissions associated with that combustion or oxidation equal or exceed ten thousand metric tons be reported to the department. Each person who is required to file periodic tax reports of motor vehicle fuel sales under RCW 82.36.031 or special fuel sales under RCW 82.38.150, or each distributor of aircraft fuel required to file periodic tax reports under RCW 82.42.040 must report to the department the annual emissions of carbon dioxide from the complete combustion or oxidation of the fuels listed in those reports as sold in the state of Washington. The department shall not require suppliers to use additional data to calculate greenhouse gas emissions other than the data the suppliers report to the department of licensing. The rules may allow this information to be aggregated when reported to the department. The department and the department of licensing shall enter into an interagency agreement to ensure proprietary and confidential information is protected if the departments share reported information. Any proprietary or confidential information exempt from disclosure when reported to the department of licensing is exempt from disclosure when shared by the department of licensing with the department under this provision.))~~

~~((b)(i) ((Except as otherwise provided in this subsection, the rules adopted by the department under (a) of this subsection must be consistent with the regulations adopted by the United States environmental protection agency in 40 C.F.R. Part 98 on September 22, 2009.~~

~~((ii))~~ The department may by rule include additional gases to the definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has been designated as a greenhouse gas by the United States congress ~~((or))~~, by the United States environmental protection agency, or included in external greenhouse gas

emission trading programs with which Washington has pursuant to section 24 of this act. Prior to including additional gases to the definition of "greenhouse gas" in RCW 70A.45.010, the department shall notify the appropriate committees of the legislature. ~~((Decisions to amend the rule to include additional gases must be made prior to December 1st of any year and the amended rule may not take effect before the end of the regular legislative session in the next year.~~

~~((iii))~~ (ii) The department may by rule exempt persons who are required to report greenhouse gas emissions to the United States environmental protection agency and who emit less than ten thousand metric tons carbon dioxide equivalent annually.

~~((iv))~~ (iii) The department must establish a methodology for persons who are not required to report under this section to voluntarily report their greenhouse gas emissions.

(c)(i) The department shall review and if necessary update its rules whenever ~~((the))~~:

(A) The United States environmental protection agency adopts final amendments to 40 C.F.R. Part 98 to ensure consistency with federal reporting requirements for emissions of greenhouse gases; or

(B) Needed to ensure consistency with emissions reporting requirements for jurisdictions with which Washington has entered a linkage agreement. ~~((However, the))~~

(ii) The department shall not amend its rules in a manner that conflicts with ~~((a) of))~~ this ~~((subsection))~~ section.

(d) The department shall share any reporting information reported to it with the local air authority in which the person reporting under the rules adopted by the department operates.

(e) The fee provisions in subsection (2) of this section apply to reporting of emissions of greenhouse gases. Persons required to report under (a) of this subsection who fail to report or pay the fee required in subsection (2) of this section are subject to enforcement penalties under this chapter. The department shall enforce the reporting rule requirements ~~((unless it approves a local air authority's request to enforce the requirements for persons operating within the authority's jurisdiction. However, neither the department nor a local air authority approved under this section are authorized to assess enforcement penalties on persons required to report under (a) of this subsection until six months after the department adopts its reporting rule in 2010)).~~ When a person that holds a compliance obligation under section 10 of this act fails to submit an emissions data report or fails to obtain a positive emissions data verification statement in accordance with (g)(i) of this subsection, the department may assign an emissions level for that person.

(f) The energy facility site evaluation council shall, simultaneously with the department, adopt rules that impose greenhouse gas reporting requirements in site certifications on owners or operators of a facility permitted by the energy facility site evaluation council. The greenhouse gas reporting requirements imposed by the energy facility site evaluation council must be the same as the greenhouse gas reporting requirements imposed by the department. The department shall share any information reported to it from facilities permitted by the energy facility site evaluation council with the council, including notice of a facility that has failed to report as required. The energy facility site evaluation

council shall contract with the department to monitor the reporting requirements adopted under this section.

~~(g)(i) The ((inclusion or failure to include any person, source, classes of persons or sources, or types of emissions of greenhouse gases into the department's rules for reporting under this section does not indicate whether such a person, source, or category is appropriate for inclusion in state, regional, or national greenhouse gas reduction programs or strategies. Furthermore, aircraft fuel purchased in the state may not be considered equivalent to aircraft fuel combusted in the state)) department must establish by rule the methods of verifying the accuracy of emissions reports.~~

(ii) Verification requirements apply at a minimum to persons required to report under (a) of this subsection with emissions that equal or exceed 25,000 metric tons of carbon dioxide equivalent emissions, including carbon dioxide from biomass-derived fuels, or to persons who have a compliance obligation under section 10 of this act in any year of the current compliance period. The department may adopt rules to accept verification reports from another jurisdiction with a linkage agreement pursuant to section 20 of this act in cases where the department deems that the methods or procedures are substantively similar.

(h)(i) The definitions in RCW 70A.45.010 apply throughout this subsection (5) unless the context clearly requires otherwise.

(ii) For the purpose of this subsection (5), the term "supplier" includes: (A) ((A motor vehicle fuel supplier or a motor vehicle fuel importer, as those terms are defined in RCW 82.36.010; (B) a special fuel supplier or a special fuel importer, as those terms are defined in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those terms are defined in RCW 82.42.010)) Suppliers that produce, import, or deliver, or any combination of producing, importing, or delivering, a quantity of fuel products in Washington that, if completely combusted, oxidized, or used in other processes, would result in the release of greenhouse gases in Washington equivalent to or higher than the threshold established under (a) of this subsection; and (B) suppliers of carbon dioxide that produce, import, or deliver a quantity of carbon dioxide in Washington that, if released, would result in emissions equivalent to or higher than the threshold established under (a) of this subsection.

(iii) For the purpose of this subsection (5), the term "person" includes: (A) An owner or operator((, as those terms are defined by the United States environmental protection agency in its mandatory greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted on September 22, 2009; and (B) a supplier)) of a facility; (B) a supplier; or (C) an electric power entity.

(iv) For the purpose of this subsection (5), the term "facility" includes facilities that directly emit greenhouse gases in Washington equivalent to the threshold established under (a) of this subsection with at least one source category listed in the United States environmental protection agency's mandatory greenhouse gas reporting regulation, 40 C.F.R. Part 98 Subparts C through II and RR through UU, as adopted on April 25, 2011.

(v) For the purpose of this subsection (5), the term "electric power entity" includes any of the following that supply electric power in Washington with associated emissions of greenhouse gases equal to or above the threshold established under (a) of this subsection: (A) Electricity importers and exporters;

(B) retail providers, including multijurisdictional retail providers; and (C) first jurisdictional deliverers, as defined in section 2 of this act, not otherwise included here.

NEW SECTION. Sec. 34. A new section is added to chapter 43.21C RCW to read as follows:

The review under this chapter of greenhouse gas emissions from a new or expanded facility subject to the greenhouse gas emission reduction requirements of chapter 70A.--- RCW (the new chapter created in section 38 of this act) must occur consistent with section 10(9) of this act.

NEW SECTION. Sec. 35. A new section is added to chapter 70A.15 RCW to read as follows:

The department or a local air authority must issue an enforceable order under this chapter, consistent with section 3(2) (b) and (c) of this act, to all permitted or registered sources operating in overburdened communities when, consistent with section 3(2)(a) of this act, the department determines that criteria pollutants are not being reduced in an overburdened community and the department or local air authority adopts stricter air quality standards, emissions standards, or emissions limitations on criteria pollutants.

NEW SECTION. Sec. 36. A new section is added to chapter 70A.45 RCW to read as follows:

The state, state agencies, and political subdivisions of the state, in implementing their duties and authorities established under other laws, may only consider the greenhouse gas limits established in RCW 70A.45.020 in a manner that recognizes, where applicable, that the siting and placement of new or expanded best-in-class facilities with lower carbon emitting processes is in the economic and environmental interests of the state of Washington.

NEW SECTION. Sec. 37. This act may be known and cited as the Washington climate commitment act.

NEW SECTION. Sec. 38. Sections 1 through 32 and 37 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. Sec. 39. (1) Sections 8 through 24 of this act, and any rules adopted by the department of ecology to implement the program established under those sections, are suspended on December 31, 2055, in the event that the department of ecology determines by December 1, 2055, that the 2050 emissions limits of RCW 70A.45.020 have been met for two or more consecutive years.

(2) Upon the occurrence of the events identified in subsection (1) of this section, the department of ecology must provide written notice of the suspension date of sections 8 through 24 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.

Sec. 40. RCW 43.376.020 and 2012 c 122 s 2 are each amended to read as follows:

In establishing a government-to-government relationship with Indian tribes, state agencies must:

(1) Make reasonable efforts to collaborate with Indian tribes in the development of policies, agreements, and program implementation that directly

affect Indian tribes and develop a consultation process that is used by the agency for issues involving specific Indian tribes. State agencies described in section 6 of this act must offer consultation with Indian tribes on the actions specified in section 6 of this act;

(2) Designate a tribal liaison who reports directly to the head of the state agency;

(3) Ensure that tribal liaisons who interact with Indian tribes and the executive directors of state agencies receive training as described in RCW 43.376.040; and

(4) Submit an annual report to the governor on activities of the state agency involving Indian tribes and on implementation of this chapter.

Sec. 41. RCW 43.21B.110 and 2020 c 138 s 11 and 2020 c 20 s 1035 are each reenacted and amended to read as follows:

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

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, section 23 of this act, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, section 23 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 42. RCW 43.21B.300 and 2020 c 20 s 1038 are each amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.300.090, 70A.20.050, section 23 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within thirty days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority thirty days after the

date of receipt by the person penalized of the notice imposing the penalty or thirty days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

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

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

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

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

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

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70A.15.3160, the disposition of which shall be governed by that provision, RCW 70A.300.090, which shall be credited to the model toxics control operating account created in RCW 70A.305.180, section 23 of this act, which shall be credited to the climate investment account created in section 28 of this act, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 70A.355.070, which shall be credited to the underground storage tank account created by RCW 70A.355.090.

Sec. 43. RCW 43.52A.040 and 1984 c 223 s 1 are each amended to read as follows:

(1) Unless removed at the governor's pleasure, councilmembers shall serve a term ending January 15 of the third year following appointment except that, with respect to members initially appointed, the governor shall designate one member to serve a term ending January 15 of the second year following appointment. Initial appointments to the council shall be made within thirty days of March 9, 1981.

(2) Each member shall serve until a successor is appointed, but if a successor is not appointed within sixty days of the beginning of a new term, the member shall be considered reappointed, subject to the consent of the senate.

(3) A vacancy on the council shall be filled for the unexpired term by the governor, with the consent of the senate.

(4) For the first available appointment and at all times thereafter, one member of Washington's delegation to the council shall reside east of the crest of the Cascade Mountains and one member shall reside west of the crest of the Cascade Mountains, except as follows: Both members may reside on the same side of the Cascade Mountains as long as this deviation does not exceed 12 months in any 10-year period.

Sec. 44. RCW 70A.45.005 and 2020 c 120 s 2 and 2020 c 20 s 1397 are each reenacted and amended to read as follows:

(1) The legislature finds that Washington has long been a national and international leader on energy conservation and environmental stewardship, including air quality protection, renewable energy development and generation, emission standards for fossil-fuel based energy generation, energy efficiency programs, natural resource conservation, sustainable forestry and the production of forest products, vehicle emission standards, and the use of biofuels. Washington is also unique among most states in that in addition to its commitment to reduce emissions of greenhouse gases, it has established goals to grow the clean energy sector and reduce the state's expenditures on imported fuels.

(2) The legislature further finds that Washington should continue its leadership on climate change policy by creating accountability for achieving the emission reductions established in RCW 70A.45.020, participating in the design of a regional multisector market-based system to help achieve those emission reductions, assessing other market strategies to reduce emissions of greenhouse gases, maintaining and enhancing the state's ability to continue to sequester carbon through natural and working lands and forest products, and ensuring the state has a well trained workforce for our clean energy future.

(3) It is the intent of the legislature that the state will: (a) Limit and reduce emissions of greenhouse gas consistent with the emission reductions established in RCW 70A.45.020; (b) minimize the potential to export pollution, jobs, and economic opportunities; (c) support industry sectors that can act as sequesterers of carbon; and (d) reduce emissions at the lowest cost to Washington's economy, consumers, and businesses.

(4) In the event the state elects to participate in a regional multisector market-based system, it is the intent of the legislature that the system will become effective by January 1, 2012, after authority is provided to the department for its implementation. By acting now, Washington businesses and citizens will have adequate time and opportunities to be well positioned to take advantage of the low-carbon economy and to make necessary investments in low-carbon technology.

(5) It is also the intent of the legislature that the regional multisector market-based system recognize Washington's unique emissions and sequestration portfolio, including the:

(a) State's hydroelectric system;

(b) Opportunities presented by Washington's abundant forest resources and the associated forest products industry, along with aquatic and agriculture land and the associated industries; and

(c) State's leadership in energy efficiency and the actions it has already taken that have reduced its generation of greenhouse gas emissions and that entities receive appropriate credit for early actions to reduce greenhouse gases.

(6) If any revenues, excluding those from state trust lands, that accrue to the state are created by a market system, they must be used for the purposes established in chapter 70A.--- RCW (the new chapter created in section 38 of this act) and to further the state's efforts to achieve the goals established in RCW 70A.45.020, address the impacts of global warming on affected habitats, species, and communities, promote and invest in industry sectors that act as sequesterers

of carbon, and increase investment in the clean energy economy particularly for communities and workers that have suffered from heavy job losses and chronic unemployment and underemployment.

NEW SECTION. Sec. 45. 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. 46. (1) The department shall prepare, post on the department website, and submit to the appropriate committees of the legislature an annual report that identifies all distributions of moneys from the accounts created in sections 27 through 31 of this act.

(2) The report must identify, at a minimum, the recipient of the funding, the amount of the funding, the purpose of the funding, the actual end result or use of the funding, whether the project that received the funding produced any verifiable reduction in greenhouse gas emissions or other long-term impact to emissions, and if so, the quantity of reduced greenhouse gas emissions, the cost per carbon dioxide equivalent metric ton of reduced greenhouse gas emissions, and a comparison to other greenhouse gas emissions reduction projects in order to facilitate the development of cost-benefit ratios for greenhouse gas emissions reduction projects.

(3) The department shall require by rule that recipients of funds from the accounts created in sections 27 through 31 of this act report to the department, in a form and manner prescribed by the department, the information required for the department to carry out the department's duties established in this section.

(4) The department shall update its website with the information described in subsection (2) of this section as appropriate but no less frequently than once per calendar year.

(5) The department shall submit its report to the appropriate committees of the legislature with the information described in subsection (2) of this section no later than September 30 of each year.

NEW SECTION. Sec. 47. RESIDENTIAL HEATING ASSISTANCE PROGRAM. (1) The legislature intends by this section to establish policies to mitigate the cost burden of the program established by this act on consumers who use home heating fuels that are not electricity or natural gas.

(2) The department, in collaboration with interested stakeholders, shall develop a proposal for assisting households that, for residential home heating, use fuels that are not electricity or natural gas. The proposal must give priority to assisting low-income households through weatherization, conservation and efficiency services, and bill assistance.

(3) In the event the department, in collaboration with interested stakeholders, determines that the proposal developed pursuant to subsection (2) of this section requires legislative action, the department shall submit its recommendations for proposed legislation to the appropriate committees of the legislature no later than September 15, 2022.

Passed by the Senate April 24, 2021.

Passed by the House April 23, 2021.

Approved by the Governor May 17, 2021, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 18, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 6; 22; and the four internal cross-references to Section 22 [Section 8, on page 20, line 32, after "in" veto "section 22 of"; Section 9, on page 22, beginning on line 14, after "2026.", veto the sentence beginning with "If" and ending with "period." on line 16; Section 13, on page 39, line 21, after "with" veto "section 22 of"; and Section 19, on page 47, line 30, after "under" veto "section 22 of"], Engrossed Second Substitute Senate Bill No. 5126 entitled:

"AN ACT Relating to the Washington climate commitment act."

Section 6 requires the development of an improved consultation framework for state agencies to communicate and collaborate with tribes on climate investments made under the act. I strongly support the need for this work, as there are multiple new programs authorized under this act that require the state and tribes to work together. However, this section also requires tribes to provide their consent for climate projects funded by the Climate Commitment Act that might impact tribal interests, which differs from our current government-to-government approach, and does not properly recognize the mutual, sovereign relationship between tribal governments and the state. Although I am vetoing this Section, I will be requesting formal consultation with Tribal leaders to develop improved consultation procedures that strengthen our ability to work together as both sovereign governments and committed partners to advance our many mutual interests.

Section 22 primarily provides a convenient summary of compliance obligations under the Act that is duplicative of the same key compliance obligations and authorizing provisions that are well established and defined in other sections of the Act, including but not limited to Sections 23, 8 and 2. For example, the rulemaking authority acknowledged in Section 22 is provided for and expanded upon in Section 25, which separately establishes comprehensive rulemaking authority that authorizes the Department of Ecology to adopt rules to implement all of the provisions of the Act. There are no substantive aspects of Section 22 that Ecology cannot adopt and implement through this rulemaking authority. By vetoing Section 22, I am also removing an internal inconsistency with regard to the expiration date of allowances, because the ability of covered entities to rely on the last seven years of allowances in Section 22(1) conflicts with the unlimited time period for use of allowances in Section 9(2). Because I am vetoing Section 22, I am also vetoing the four internal cross-references to Section 22. Finally, I want to express my deep appreciation for the Legislature's remarkable work on this critical piece of legislation; however, the delayed effective date established in subsection (7) unnecessarily hinders our state's ability to combat climate change, one of the greatest challenges facing our state and the world today.

For these reasons I have vetoed Sections 6; 22; and the four internal cross-references to Section 22 [Section 8, on page 20, line 32, after "in" veto "section 22 of"; Section 9, on page 22, beginning on line 14, after "2026.", veto the sentence beginning with "If" and ending with "period." on line 16; Section 13, on page 39, line 21, after "with" veto "section 22 of"; and Section 19, on page 47, line 30, after "under" veto "section 22 of"] of Engrossed Second Substitute Senate Bill No. 5126.

With the exception of Sections 6; 22; and the four internal cross-references to Section 22 [Section 8, on page 20, line 32, after "in" veto "section 22 of"; Section 9, on page 22, beginning on line 14, after "2026.", veto the sentence beginning with "If" and ending with "period." on line 16; Section 13, on page 39, line 21, after "with" veto "section 22 of"; and Section 19, on page 47, line 30, after "under" veto "section 22 of"], Engrossed Second Substitute Senate Bill No. 5126 is approved."

CHAPTER 317

[Engrossed Third Substitute House Bill 1091]

TRANSPORTATION FUEL—CLEAN FUELS PROGRAM

AN ACT Relating to reducing greenhouse gas emissions by reducing the carbon intensity of transportation fuel; amending RCW 80.50.060, 46.17.365, 46.25.100, 46.20.202, 46.25.052, 46.25.060, 70A.15.3150, 70A.15.3160, 19.112.110, and 19.112.120; reenacting and amending RCW 80.50.020; adding a new section to chapter 82.04 RCW; adding a new section to chapter 43.21A RCW; adding a new chapter to Title 70A RCW; creating new sections; prescribing penalties; and providing expiration dates.

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

NEW SECTION. Sec. 1. (1) The legislature finds that rapid innovations in low carbon transportation technologies, including electric vehicles and clean transportation fuels, are at the threshold of widespread commercial deployment. In order to help prompt the use of clean fuels, other states have successfully implemented programs that reduce the carbon intensity of their transportation fuels. California and Oregon have both implemented low carbon fuel standards that are similar to the program created in this act, and both states have experienced biofuel sector growth and have successfully sited large biofuel projects that had originally been planned for Washington. Washington state has extensively studied the potential impact of a clean fuels program, and most projections show that a low carbon fuel standard would decrease greenhouse gas and conventional air pollutant emissions, while positively impacting the state's economy.

(2) The legislature further finds that the health and welfare of the people of the state of Washington is threatened by the prospect of crumbling or swamped coastlines, rising water, and more intense forest fires caused by higher temperatures and related droughts, all of which are intensified and made more frequent by the volume of greenhouse gas emissions. As of 2017, the transportation sector contributes 45 percent of Washington's greenhouse gas emissions, and the legislature's interest in the life cycle of the fuels used in the state arises from a concern for the effects of the production and use of these fuels on Washington's environment and public health, including its air quality, snowpack, and coastline.

(3) Therefore, it is the intent of the legislature to support the deployment of clean transportation fuel technologies through a carefully designed program that reduces the carbon intensity of fuel used in Washington, in order to:

- (a) Reduce levels of conventional air pollutants from diesel and gasoline that are harmful to public health;
- (b) Reduce greenhouse gas emissions associated with transportation fuels, which are the state's largest source of greenhouse gas emissions; and
- (c) Create jobs and spur economic development based on innovative clean fuel technologies.

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

(1) "Carbon dioxide equivalents" has the same meaning as defined in RCW 70A.45.010.

(2) "Carbon intensity" means the quantity of life-cycle greenhouse gas emissions, per unit of fuel energy, expressed in grams of carbon dioxide equivalent per megajoule (gCO_{2e}/MJ).

(3) "Clean fuels program" means the requirements established under this chapter.

(4) "Cost" means an expense connected to the manufacture, distribution, or other aspects of the provision of a transportation fuel product.

(5) "Credit" means a unit of measure generated when a transportation fuel with a carbon intensity that is less than the applicable standard adopted by the department under section 3 of this act is produced, imported, or dispensed for use in Washington, such that one credit is equal to one metric ton of carbon

dioxide equivalents. A credit may also be generated through other activities consistent with this chapter.

(6) "Deficit" means a unit of measure generated when a transportation fuel with a carbon intensity that is greater than the applicable standard adopted by the department under section 3 of this act is produced, imported, or dispensed for use in Washington, such that one deficit is equal to one metric ton of carbon dioxide equivalents.

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

(8) "Electric utility" means a consumer-owned utility or investor-owned utility, as those terms are defined in RCW 19.29A.010.

(9) "Greenhouse gas" has the same meaning as defined in RCW 70A.45.010.

(10) "Military tactical vehicle" means a motor vehicle owned by the United States department of defense or the United States military services and that is used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(11) "Motor vehicle" has the same meaning as defined in RCW 46.04.320.

(12) "Price" means the amount of payment or compensation provided as consideration for a specified quantity of transportation fuel by a consumer or end user of the transportation fuel.

(13) "Regulated party" means a producer or importer of any amount of a transportation fuel that is ineligible to generate credits under this chapter.

(14)(a) "Tactical support equipment" means equipment using a portable engine, including turbines, that meets military specifications, owned by the United States military services or its allies, and that is used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(b) "Tactical support equipment" includes, but is not limited to, engines associated with portable generators, aircraft start carts, heaters, and lighting carts.

(15) "Transportation fuel" means electricity and any liquid or gaseous fuel sold, supplied, offered for sale, or used for the propulsion of a motor vehicle or that is intended for use for transportation purposes.

***NEW SECTION. Sec. 3.** (1) The department shall adopt rules that establish standards that reduce carbon intensity in transportation fuels used in Washington. The standards established by the rules must be based on the carbon intensity of gasoline and gasoline substitutes and the carbon intensity of diesel and diesel substitutes. The standards:

(a) Must reduce the overall, aggregate carbon intensity of transportation fuels used in Washington;

(b) May only require carbon intensity reductions at the aggregate level of all transportation fuels and may not require a reduction in carbon intensity to be achieved by any individual type of transportation fuel;

(c) Must assign a compliance obligation to fuels whose carbon intensity exceeds the standards adopted by the department, consistent with the requirements of section 4 of this act; and

(d) Must assign credits that can be used to satisfy or offset compliance obligations to fuels whose carbon intensity is below the standards adopted by the

department and that elect to participate in the program, consistent with the requirements of section 4 of this act.

(2) The clean fuels program adopted by the department must be designed such that:

(a) Regulated parties generate deficits and may reconcile the deficits, and thus comply with the clean fuels program standards for a compliance period, by obtaining and retiring credits;

(b) Regulated parties and credit generators may generate credits for fuels used as substitutes or alternatives for gasoline or diesel;

(c) Regulated parties, credit generators, and credit aggregators shall have opportunities to trade credits; and

(d) Regulated parties shall be allowed to carry over to the next compliance period a small deficit without penalty.

(3) The department shall, throughout a compliance period, regularly monitor the availability of fuels needed for compliance with the clean fuels program.

(4)(a) Under the clean fuels program, the department shall monthly calculate the volume-weighted average price of credits and, no later than the last day of the month immediately following the month for which the calculation is completed, post the formula and the nonaggregated data the department used for the calculation and the results of the calculation on the department's website.

(b) In completing the calculation required by this subsection, the department may exclude from the data set credit transfers without a price or other credit transfers made for a price that falls two standard deviations outside of the mean credit price for the month. Data posted on the department's website under this section may not include any individually identifiable information or information that would constitute a trade secret.

(5)(a) Except as provided in this section, the rules adopted under this section must reduce the greenhouse gas emissions attributable to each unit of the fuels to 20 percent below 2017 levels by 2038 based on the following schedule:

(i) No more than 0.5 percent each year in 2023 and 2024;

(ii) No more than an additional one percent each year beginning in 2025 through 2027;

(iii) No more than an additional 1.5 percent each year beginning in 2028 through 2031; and

(iv) No change in 2032 and 2033.

(b) The rules must establish a start date for the clean fuels program of no later than January 1, 2023, except as provided in subsection (8) of this section.

(6) Beginning with the program year beginning in calendar year 2028, the department may not increase the carbon intensity reductions required by the applicable clean fuels program standard adopted by the department under subsection (5) of this section beyond a 10 percent reduction in carbon intensity until the department demonstrates that the following have occurred:

(a) At least a 15 percent net increase in the volume of in-state liquid biofuel production and the use of feedstocks grown or produced within the state relative to the start of the program; and

(b) At least one new or expanded biofuel production facility representing an increase in production capacity or producing, in total, in excess of 60,000,000 gallons of biofuels per year has or have received after July 1, 2021, all necessary

siting, operating, and environmental permits post all timely and applicable appeals. As part of the threshold of 60,000,000 gallons of biofuel under this subsection, at least one new facility producing at least 10,000,000 gallons per year must have received all necessary siting, operating, and environmental permits. Timely and applicable appeals must be determined by the attorney general's office.

(7) Beginning with the program year beginning in calendar year 2031, the department may not increase the carbon intensity reductions required by the applicable clean fuels program standard adopted by the department under subsection (5) of this section beyond a 10 percent reduction in carbon intensity until the:

(a) Joint legislative audit and review committee report required in section 15 of this act has been completed; and

(b) 2033 regular legislative session has adjourned, in order to allow an opportunity for the legislature to amend the requirements of this chapter in light of the report required in (a) of this subsection.

(8)(a) In order to coordinate and synchronize the clean fuels program with other transportation-related investments, the department may not assign compliance obligations or allow the generation of credits under this chapter until a separate additive transportation revenue act becomes law, at which time the department of licensing must provide written notice to the chief clerk of the house of representatives, the secretary of the senate, and the office of the code reviser.

(b) For the purposes of this subsection, "additive transportation revenue act" means an act enacted after April 1, 2021, in which the state fuel tax under RCW 82.38.030 is increased by an additional and cumulative tax rate of at least five cents per gallon of fuel.

(9) Transportation fuels exported from Washington are not subject to the greenhouse gas emissions reduction requirements in this section.

(10) To the extent the requirements of this chapter conflict with the requirements of chapter 19.112 RCW, the requirements of this chapter prevail.

**Sec. 3 is partially vetoed. See message at end of chapter.*

NEW SECTION. Sec. 4. The rules adopted by the department to achieve the greenhouse gas emissions reductions per unit of fuel energy specified in section 3 of this act must include, but are not limited to, the following:

(1) Standards for greenhouse gas emissions attributable to the transportation fuels throughout their life cycles, including but not limited to emissions from the production, storage, transportation, and combustion of transportation fuels and from changes in land use associated with transportation fuels and any permanent greenhouse gas sequestration activities.

(a) The rules adopted by the department under this subsection (1) may:

(i) Include provisions to address the efficiency of a fuel as used in a powertrain as compared to a reference fuel;

(ii) Consider carbon intensity calculations for transportation fuels developed by national laboratories or used by similar programs in other states; and

(iii) Consider changes in land use and any permanent greenhouse gas sequestration activities associated with the production of any type of transportation fuel.

(b) The rules adopted by the department under this subsection (1) must:

(i) Neutrally consider the life-cycle emissions associated with transportation fuels with respect to the political jurisdiction in which the fuels originated and may not discriminate against fuels on the basis of having originated in another state or jurisdiction. Nothing in this subsection may be construed to prohibit inclusion or assessment of emissions related to fuel production, storage, transportation, or combustion or associated changes in land use in determining the carbon intensity of a fuel;

(ii) Measure greenhouse gas emissions associated with electricity and hydrogen based on a mix of generation resources specific to each electric utility participating in the clean fuels program. The department may apply an asset-controlling supplier emission factor certified or approved by a similar program to reduce the greenhouse gas emissions associated with transportation fuels in another state;

(iii) Include mechanisms for certifying electricity that has a carbon intensity of zero. This electricity must include, at minimum, electricity:

(A) For which a renewable energy credit or other environmental attribute has been retired or used; and

(B) Produced using a zero emission resource including, but not limited to, solar, wind, geothermal, or the industrial combustion of biomass consistent with RCW 70A.45.020(3), that is directly supplied as a transportation fuel by the generator of the electricity to a metered customer for electric vehicle charging or refueling;

(iv) Allow the generation of credits associated with electricity with a carbon intensity lower than that of standard adopted by the department. The department may not require electricity to have a carbon intensity of zero in order to be eligible to generate credits from use as a transportation fuel; and

(v) Include procedures for setting and adjusting the amounts of greenhouse gas emissions per unit of fuel energy that is assigned to transportation fuels under this subsection.

(c) If the department determines that it is necessary for purposes of accurately measuring greenhouse gas emissions associated with transportation fuels, the department may require transportation fuel suppliers to submit data or information to be used for purposes of calculating greenhouse gas emissions that is different from or additional to the greenhouse gas emissions data reported under RCW 70A.15.2200(5)(a)(iii).

(d) If the department determines that it is necessary for purposes of accurately measuring greenhouse gas emissions associated with electricity supplied to retail customers or hydrogen production facilities by an electric utility, the department may require electric utilities participating in the clean fuels program to submit data or information to be used for purposes of calculating greenhouse gas emissions that is different from or additional to the fuel mix disclosure information submitted under chapter 19.29A RCW. To the extent practicable, rules adopted by the department may allow data requested of utilities to be submitted in a form and manner consistent with other required state or federal data submissions;

(2) Provisions allowing for the achievement of limits on the greenhouse gas emissions intensity of transportation fuels in section 3 of this act to be achieved by any combination of credit generating activities capable of meeting such standards. Where such provisions would not produce results counter to the

emission reduction goals of the program or prove administratively burdensome for the department, the rules should provide each participant in the clean fuels program with the opportunity to demonstrate appropriate carbon intensity values taking into account both emissions from production facilities and elsewhere in the production cycle, including changes in land use and permanent greenhouse gas sequestration activities;

(3)(a) Methods for assigning compliance obligations and methods for tracking tradable credits. The department may assign the generation of a credit when a fuel with associated life-cycle greenhouse gas emissions that are lower than the applicable per-unit standard adopted by the department under section 3 of this act is produced, imported, or dispensed for use in Washington, or when specified activities are undertaken that support the reduction of greenhouse gas emissions associated with transportation in Washington;

(b) Mechanisms that allow credits to be traded and to be banked for future compliance periods; and

(c) Procedures for verifying the validity of credits and deficits generated under the clean fuels program;

(4) Mechanisms to elect to participate in the clean fuels program for persons associated with the supply chains of transportation fuels that are eligible to generate credits consistent with subsection (3) of this section, including producers, importers, distributors, users, or retailers of such fuels, and electric vehicle manufacturers;

(5) Mechanisms for persons associated with the supply chains of transportation fuels that are used for purposes that are exempt from the clean fuels program compliance obligations including, but not limited to, fuels used by aircraft, vessels, railroad locomotives, and other exempt fuels specified in section 5 of this act, to elect to participate in the clean fuels program by earning credits for the production, import, distribution, use, or retail of exempt fuels with associated life-cycle greenhouse gas emissions lower than the per-unit standard established in section 3 of this act;

(6) Mechanisms that allow for the assignment of credits to an electric utility for electricity used within its utility service area, at minimum, for residential electric vehicle charging or fueling;

(7) Cost containment mechanisms.

(a) Cost containment mechanisms must include the credit clearance market specified in subsection (8) of this section and may also include, but are not limited to:

(i) Procedures similar to the credit clearance market required in subsection (8) of this section that provide a means of compliance with the clean fuels program requirements in the event that a regulated person has not been able to acquire sufficient volumes of credits at the end of a compliance period; or

(ii) Similar procedures that ensure that credit prices do not significantly exceed credit prices in other jurisdictions that have adopted similar programs to reduce the carbon intensity of transportation fuels.

(b) Any cost containment mechanisms must be designed to provide financial disincentive for regulated persons to rely on the cost containment mechanism for purposes of program compliance instead of seeking to generate or acquire sufficient credits under the program.

(c) The department shall harmonize the program's cost containment mechanisms with the cost containment rules in the states specified in section 7(1) of this act.

(d) The department shall consider mechanisms such as the establishment of a credit price cap or other alternative cost containment measures if deemed necessary to harmonize market credit costs with those in the states specified in section 7(1) of this act;

(8)(a)(i) A credit clearance market for any compliance period in which at least one regulated party reports that the regulated party has a net deficit balance at the end of the compliance period, after retirement of all credits held by the regulated party, that is greater than a small deficit. A regulated party described by this subsection is required to participate in the credit clearance market.

(ii) If a regulated party has a small deficit at the end of a compliance period, the regulated party shall notify the department that it will achieve compliance with the clean fuels program during the compliance period by either: (A) Participating in a credit clearance market; or (B) carrying forward the small deficit.

(b) For the purposes of administering a credit clearance market required by this section, the department shall:

(i) Allow any regulated party, credit generator, or credit aggregator that holds excess credits at the end of the compliance period to voluntarily participate in the credit clearance market as a seller by pledging a specified number of credits for sale in the market;

(ii) Require each regulated party participating in the credit clearance market as purchaser of credits to:

(A) Have retired all credits in the regulated party's possession prior to participating in the credit clearance market; and

(B) Purchase the specified number of the total pledged credits that the department has determined are that regulated party's pro rata share of the pledged credits;

(iii) Require all sellers to:

(A) Agree to sell pledged credits at a price no higher than a maximum price for credits;

(B) Accept all offers to purchase pledged credits at the maximum price for credits; and

(C) Agree to withhold any pledged credits from sale in any transaction outside of the credit clearance market until the end of the credit clearance market, or if no credit clearance market is held in a given year, then until the date on which the department announces it will not be held.

(c)(i) The department shall set a maximum price for credits in a credit clearance market, consistent with states that have adopted similar clean fuels programs, not to exceed \$200 in 2018 dollars for 2023.

(ii) For 2024 and subsequent years, the maximum price may exceed \$200 in 2018 dollars, but only to the extent that a greater maximum price for credits is necessary to annually adjust for inflation, beginning on January 1, 2024, pursuant to the increase, if any, from the preceding calendar year in the consumer price index for all urban consumers, west region (all items), as published by the bureau of labor statistics of the United States department of labor.

(d) A regulated party that has a net deficit balance after the close of a credit clearance market:

(i) Must carry over the remaining deficits into the next compliance period; and

(ii) May not be subject to interest greater than five percent, penalties, or assertions of noncompliance that accrue based on the carryover of deficits under this subsection.

(e) If a regulated party has been required under (a) of this subsection to participate as a purchaser in two consecutive credit clearance markets and continues to have a net deficit balance after the close of the second consecutive credit clearance market, the department shall complete, no later than two months after the close of the second credit clearance market, an analysis of the root cause of an inability of the regulated party to retire the remaining deficits. The department may recommend and implement any remedy that the department determines is necessary to address the root cause identified in the analysis including, but not limited to, issuing a deferral, provided that the remedy implemented does not:

(i) Require a regulated party to purchase credits for an amount that exceeds the maximum price for credits in the most recent credit clearance market; or

(ii) Compel a person to sell credits.

(f) If credits sold in a credit clearance market are subsequently invalidated as a result of fraud or any other form of noncompliance on the part of the generator of the credit, the department may not pursue civil penalties against, or require credit replacement by, the regulated party that purchased the credits unless the regulated party was a party to the fraud or other form of noncompliance.

(g) The department may not disclose the deficit balances or pro rata share purchase requirements of a regulated party that participates in the credit clearance market;

(9) Authority for the department to designate an entity to aggregate and use unclaimed credits associated with persons that elect not to participate in the clean fuels program under subsection (4) of this section.

NEW SECTION. Sec. 5. (1) The rules adopted under sections 3 and 4 of this act must include exemptions for, at minimum, the following transportation fuels:

(a) Fuels used in volumes below thresholds adopted by the department;

(b) Fuels used for the propulsion of all aircraft, vessels, and railroad locomotives; and

(c) Fuels used for the operation of military tactical vehicles and tactical support equipment.

(2)(a) The rules adopted under sections 3 and 4 of this act must exempt the following transportation fuels from greenhouse gas emission intensity reduction requirements until January 1, 2028:

(i) Special fuel used off-road in vehicles used primarily to transport logs;

(ii) Dyed special fuel used in vehicles that are not designed primarily to transport persons or property, that are not designed to be primarily operated on highways, and that are used primarily for construction work including, but not limited to, mining and timber harvest operations; and

(iii) Dyed special fuel used for agricultural purposes exempt from chapter 82.38 RCW.

(b) Prior to January 1, 2028, fuels identified in this subsection (2) are eligible to generate credits, consistent with subsection (5) of this section. Beginning January 1, 2028, the fuels identified in this subsection (2) are subject to the greenhouse gas emission intensity reduction requirements applicable to transportation fuels specified in section 3 of this act.

(3) The department may adopt rules to specify the standards for persons to qualify for the exemptions provided in this section. The department may implement the exemptions under subsection (2) of this section to align with the implementation of exemptions for similar fuels exempt from chapter 82.38 RCW.

(4) The rules adopted under sections 3 and 4 of this act may include exemptions in addition to those described in subsections (1) and (2) of this section, but only if such exemptions are necessary, with respect to the relationship between the program and similar greenhouse gas emissions requirements or low carbon fuel standards, in order to avoid:

- (a) Mismatched incentives across programs;
- (b) Fuel shifting between markets; or
- (c) Other results that are counter to the intent of this chapter.

(5) Nothing in this chapter precludes the department from adopting rules under sections 3 and 4 of this act that allow the generation of credits associated with electric or alternative transportation infrastructure that existed prior to the effective date of this section or to the start date of program requirements. The department must apply the same baseline years to credits associated with electric or alternative transportation infrastructure that apply to gasoline and diesel liquid fuels in any market-based program enacted by the legislature that establishes a cap on greenhouse gas emissions.

NEW SECTION. Sec. 6. (1) The rules adopted under sections 3 and 4 of this act may allow the generation of credits from activities that support the reduction of greenhouse gas emissions associated with transportation in Washington, including but not limited to:

- (a) Carbon capture and sequestration projects, including but not limited to:
 - (i) Innovative crude oil production projects that include carbon capture and sequestration;
 - (ii) Project-based refinery greenhouse gas mitigation including, but not limited to, process improvements, renewable hydrogen use, and carbon capture and sequestration; or
 - (iii) Direct air capture projects;
- (b) Investments and activities that support deployment of machinery and equipment used to produce gaseous and liquid fuels from nonfossil feedstocks, and derivatives thereof;
- (c) The fueling of battery or fuel cell electric vehicles by a commercial, nonprofit, or public entity that is not an electric utility, which may include, but is not limited to, the fueling of vehicles using electricity certified by the department to have a carbon intensity of zero; and
- (d) The use of smart vehicle charging technology that results in the fueling of an electric vehicle during times when the carbon intensity of grid electricity is comparatively low.

(2)(a) The rules adopted under sections 3 and 4 of this act must allow the generation of credits based on capacity for zero emission vehicle refueling infrastructure, including DC fast charging infrastructure and hydrogen refueling infrastructure.

(b) The rules adopted under sections 3 and 4 of this act may allow the generation of credits from the provision of low carbon fuel infrastructure not specified in (a) of this subsection.

(3) The rules adopted under sections 3 and 4 of this act must allow the generation of credits from state transportation investments funded in an omnibus transportation appropriations act for activities and projects that reduce greenhouse gas emissions and decarbonize the transportation sector. These include, but are not limited to: (a) Electrical grid and hydrogen fueling infrastructure investments; (b) ferry operating and capital investments; (c) electrification of the state ferry fleet; (d) alternative fuel vehicle rebate programs; (e) transit grants; (f) infrastructure and other costs associated with the adoption of alternative fuel use by transit agencies; (g) bike and pedestrian grant programs and other activities; (h) complete streets and safe walking grants and allocations; (i) rail funding; and (j) multimodal investments.

(4) The rules adopted by the department may establish limits for the number of credits that may be earned each year by persons participating in the program for some or all of the activities specified in subsections (1) and (2) of this section. The department must limit the number of credits that may be earned each year under subsection (3) of this section to 10 percent of the total program credits. Any limits established under this subsection must take into consideration the return on investment required in order for an activity specified in subsection (2) of this section to be financially viable.

NEW SECTION. **Sec. 7.** (1) Except where otherwise provided in this chapter, the department shall seek to adopt rules that are harmonized with the regulatory standards, exemptions, reporting obligations, and other clean fuels program compliance requirements and methods for credit generation of other states that:

(a) Have adopted low carbon fuel standards or similar greenhouse gas emissions requirements applicable specifically to transportation fuels; and

(b)(i) Supply, or have the potential to supply, significant quantities of transportation fuel to Washington markets; or

(ii) To which Washington supplies, or has the potential to supply, significant quantities of transportation fuel.

(2) The department must establish and periodically consult a stakeholder advisory panel, including representatives of forestland and agricultural landowners, for purposes of soliciting input on how to best incentivize and allot credits for the sequestration of greenhouse gases through activities on agricultural and forestlands in a manner that is consistent with the goals and requirements of this chapter.

(3) The department must conduct a biennial review of innovative technologies and pathways that reduce carbon and increase credit generation opportunities and must modify rules or guidance as needed to maintain stable credit markets.

(4) In any reports to the legislature under section 10 of this act, on the department's website, or in other public documents or communications that refer

to assumed public health benefits associated with the program created in this chapter, the department must distinguish between public health benefits from small particulate matter and other conventional pollutant reductions achieved primarily as a result of vehicle emission standards established under chapter 70A.30 RCW, and the incremental benefits to air pollution attributable to the program created under this chapter.

NEW SECTION. Sec. 8. (1)(a) Each producer or importer of any amount of a transportation fuel that is ineligible to generate credits consistent with the requirements of section 4(3) of this act must register with the department.

(b) Electric vehicle manufacturers and producers, importers, distributors, users, and retailers of transportation fuels that are eligible to generate credits consistent with section 4(3) of this act must register with the department if they elect to participate in the clean fuels program.

(c) Other persons must register with the department to generate credits from other activities that support the reduction of greenhouse gas emissions associated with transportation in Washington.

(2) Each transaction transferring ownership of transportation fuels for which clean fuels program participation is mandated must be accompanied by documentation, in a format approved by the department, that assigns the clean fuels program compliance responsibility associated with the fuels, including the assignment of associated credits. The department may also require documentation assigning clean fuels program compliance responsibility associated with fuels for which program participation has been elected.

(3) The department may adopt rules requiring the periodic reporting of information to the department by persons associated with the supply chains of transportation fuels participating in the clean fuels program. To the extent practicable, the rules must establish reporting procedures and timelines that are consistent with similar programs in other states that reduce the greenhouse gas emission intensity of transportation fuel and with procedures and timelines of state programs requiring similar information to be reported by regulated parties, including electric utilities.

(4) RCW 70A.15.2510 applies to records or information submitted to the department under this chapter.

NEW SECTION. Sec. 9. (1)(a) Fifty percent of the revenues generated by an electric utility from credits earned from the electricity supplied to retail customers by an electric utility under the clean fuels program must be expended by the electric utility on transportation electrification projects, which may include projects to support the production and provision of hydrogen and other gaseous fuels produced from nonfossil feedstocks, and derivatives thereof as a transportation fuel.

(b) Sixty percent of the revenues described in (a) of this subsection, or 30 percent of the revenues generated by an electric utility from credits earned from the electricity supplied to retail customers by an electric utility under the clean fuels program, must be expended by the electric utility on transportation electrification projects, which may include projects to support the production and provision of hydrogen and other gaseous fuels produced from nonfossil feedstocks, and derivatives thereof as a transportation fuel, located within or directly benefiting a federally designated nonattainment or maintenance area, a

federally designated nonattainment or maintenance area that existed as of January 1, 2021, a disproportionately impacted community identified by the department of health, or an area designated by the department as being at risk of nonattainment, if such a nonattainment or maintenance area or disproportionately impacted community is within the service area of the utility.

(2)(a) Each electric utility must spend 50 percent of revenues not subject to the requirements of subsection (1) of this section on one or more transportation electrification programs or projects it selects from a list of types of programs and projects jointly developed by the department and the Washington state department of transportation. The department and the Washington state department of transportation must develop the list based on those with the highest impact on reducing greenhouse gas emissions and decarbonizing the transportation sector. The types of transportation electrification projects or programs placed on the list must include, but are not limited to:

(i) Provision of new or used zero emissions vehicles at no cost or at a discount to nonprofit service providers, transit agencies, or public fleets for the purpose of providing transportation services for low-income or vulnerable populations or to reduce transportation costs for the nonprofits, transit agencies, or public fleets serving low-income or vulnerable populations;

(ii) Construction, operation, or maintenance of, or funding for charging infrastructure, including smart charging infrastructure, or hydrogen fueling infrastructure;

(iii) Expanding grid capacity to enable transportation electrification investments directly associated with expenditures permitted by this chapter; and

(iv) Partnership programs with public and private vehicle fleet owners to enable increased electrification of transportation.

(b) Under (a) of this subsection, electric utilities should consider programs or projects that expand low and moderate-income customer access to zero emissions transportation, when prioritizing program expenditures.

(3) Electric utilities that participate in the clean fuels program must annually provide information to the department accounting for and briefly describing all expenditures of revenues generated from credits earned under the clean fuels program.

NEW SECTION. Sec. 10. (1) Beginning May 1, 2025, and each May 1st thereafter, the department must post a report on the department's website that includes the following information regarding the previous calendar year of clean fuels program activities:

(a) The program-wide number of credits and deficits generated by entities participating in the clean fuels program;

(b) The volumes of each transportation fuel and average price per credit used to comply with the requirements of the clean fuels program;

(c) The best estimate or range in probable costs or cost savings attributable to the clean fuels program per gallon of gasoline and per gallon of diesel, as determined by an independent consultant whose services the department has contracted. The estimate or range in probable costs or cost savings from the independent consultant must be announced in a press release to the news media at the time that the report under this subsection (1) is posted to the department's website, and must be simultaneously reported to the transportation committees of the house of representatives and the senate;

(d) The total greenhouse gas emissions reductions attributable to the clean fuels program isolated from the greenhouse gas emissions reductions attributable to other state and national programs on the same fuels; and

(e) The range in the probable cost per ton of greenhouse gas emissions reductions attributable to fuels supported by the clean fuels program, taking into account the information in (c) and (d) of this subsection.

(2) Nothing in this section prohibits the department from posting information described in subsection (1) of this section on a more frequent basis than once per year.

(3) By May 1, 2025, and each May 1st thereafter, the department must submit the report required under subsection (1) of this section to the appropriate committees of the house of representatives and senate.

(4) The department must contract for a one-time ex ante independent analysis of the information specified in subsection (1)(c) of this section covering each year of the program through 2038. The analysis must be informed by input from stakeholders, including regulated industries, and informed by experience from other jurisdictions. The analysis must impute price impacts using multiple analytical methodologies and must make clear how the assumptions or factors considered differed in each methodology used and price impact imputed. The analysis required in this subsection must be completed and submitted to the appropriate committees of the legislature by July 1, 2022.

NEW SECTION. Sec. 11. (1) In consultation with the department, the utilities and transportation commission, and the department of agriculture, the department of commerce must develop a periodic fuel supply forecast to project the availability of fuels to Washington necessary for compliance with clean fuels program requirements.

(2) Based upon the estimates in subsection (3) of this section, the fuel supply forecast must include a prediction by the department of commerce regarding whether sufficient credits will be available to comply with clean fuels program requirements.

(3) The fuel supply forecast for each upcoming compliance period must include, but is not limited to, the following:

(a) An estimate of the potential volumes of gasoline, gasoline substitutes, and gasoline alternatives, and diesel, diesel substitutes, and diesel alternatives available to Washington. In developing this estimate, the department of commerce must consider, but is not limited to considering:

(i) The existing and future vehicle fleet in Washington; and

(ii) Any constraints that might be preventing access to available and cost-effective low carbon fuels by Washington, such as geographic and logistical factors, and alleviating factors to the constraints;

(b) An estimate of the total banked credits and carried over deficits held by regulated parties, credit generators, and credit aggregators at the beginning of the compliance period, and an estimate of the total credits attributable to fuels described in (a) of this subsection;

(c) An estimate of the number of credits needed to meet the applicable clean fuels program requirements during the forecasted compliance period; and

(d) A comparison in the estimates of (a) and (b) of this subsection with the estimate in (c) of this subsection, for the purpose of indicating the availability of

fuels and banked credits needed for compliance with the requirements of this chapter.

(4) The department of commerce, in coordination with the department, may appoint a forecast review team of relevant experts to participate in the fuel supply forecast or examination of data required by this section. The department of commerce must finalize a fuel supply forecast for an upcoming compliance period by no later than 90 days prior to the start of the compliance period.

NEW SECTION. Sec. 12. (1) No later than 30 calendar days before the commencement of a compliance period, the department shall issue an order declaring a forecast deferral if the fuel supply forecast under section 11 of this act projects that the amount of credits that will be available during the forecast compliance period will be less than 100 percent of the credits projected to be necessary for regulated parties to comply with the scheduled applicable clean fuels program standard adopted by the department for the forecast compliance period.

(2) An order declaring a forecast deferral under this section must set forth:

(a) The duration of the forecast deferral;

(b) The types of fuel to which the forecast deferral applies; and

(c) Which of the following methods the department has selected for deferring compliance with the scheduled applicable clean fuels program standard during the forecast deferral:

(i) Temporarily adjusting the scheduled applicable clean fuels program standard to a standard identified in the order that better reflects the forecast availability of credits during the forecast compliance period and requiring regulated parties to comply with the temporary standard;

(ii) Requiring regulated parties to comply only with the clean fuels program standard applicable during the compliance period prior to the forecast compliance period; or

(iii) Suspending deficit accrual for part or all of the forecast deferral period.

(3)(a) In implementing a forecast deferral, the department may take an action for deferring compliance with the clean fuels program standard other than, or in addition to, selecting a method under subsection (2)(c) of this section only if the department determines that none of the methods under subsection (2)(c) of this section will provide a sufficient mechanism for containing the costs of compliance with the clean fuels program standards during the forecast deferral.

(b) If the department makes the determination specified in (a) of this subsection, the department shall:

(i) Include in the order declaring a forecast deferral the determination and the action to be taken; and

(ii) Provide written notification and justification of the determination and the action to:

(A) The governor;

(B) The president of the senate;

(C) The speaker of the house of representatives;

(D) The majority and minority leaders of the senate; and

(E) The majority and minority leaders of the house of representatives.

(4) The duration of a forecast deferral may not be less than one calendar quarter or longer than one compliance period. Only the department may

terminate, by order, a forecast deferral before the expiration date of the forecast deferral. Termination of a forecast deferral is effective on the first day of the next calendar quarter after the date that the order declaring the termination is adopted.

NEW SECTION. Sec. 13. (1) The director of the department may issue an order declaring an emergency deferral of compliance with the carbon intensity standard established under section 3 of this act no later than 15 calendar days after the date the department determines, in consultation with the governor's office and the department of commerce, that:

(a) Extreme and unusual circumstances exist that prevent the distribution of an adequate supply of renewable fuels needed for regulated parties to comply with the clean fuels program taking into consideration all available methods of obtaining sufficient credits to comply with the standard;

(b) The extreme and unusual circumstances are the result of a natural disaster, an act of God, a significant supply chain disruption or production facility equipment failure, or another event that could not reasonably have been foreseen or prevented and not the lack of prudent planning on the part of the suppliers of the fuels to the state; and

(c) It is in the public interest to grant the deferral such as when a deferral is necessary to meet projected temporary shortfalls in the supply of the renewable fuel in the state and that other methods of obtaining compliance credits are unavailable to compensate for the shortage of renewable fuel supply.

(2) If the director of the department makes the determination required under subsection (1) of this section, such a temporary extreme and unusual deferral is permitted only if:

(a) The deferral applies only for the shortest time necessary to address the extreme and unusual circumstances;

(b) The deferral is effective for the shortest practicable time period the director of the department determines necessary to permit the correction of the extreme and unusual circumstances; and

(c) The director has given public notice of a proposed deferral.

(3) An order declaring an emergency deferral under this section must set forth:

(a) The duration of the emergency deferral;

(b) The types of fuel to which the emergency deferral applies;

(c) Which of the following methods the department has selected for deferring compliance with the clean fuels program during the emergency deferral:

(i) Temporarily adjusting the scheduled applicable carbon intensity standard to a standard identified in the order that better reflects the availability of credits during the emergency deferral and requiring regulated parties to comply with the temporary standard;

(ii) Allowing for the carryover of deficits accrued during the emergency deferral into the next compliance period without penalty; or

(iii) Suspending deficit accrual during the emergency deferral period.

(4) An emergency deferral may be terminated prior to the expiration date of the emergency deferral if new information becomes available indicating that the shortage that provided the basis for the emergency deferral has ended. The director of the department shall consult with the department of commerce and the governor's office in making an early termination decision. Termination of an

emergency deferral is effective 15 calendar days after the date that the order declaring the termination is adopted.

(5)(a) In addition to the emergency deferral specified in subsection (1) of this section, the department may issue a full or partial deferral for one calendar quarter of a person's obligation to furnish credits for compliance under section 4 of this act if it finds that the person is unable to comply with the requirements of this chapter due to reasons beyond the person's reasonable control. The department may initiate a deferral under this subsection at its own discretion or at the request of a person regulated under this chapter. The department may renew issued deferrals. In evaluating whether to issue a deferral under this subsection, the department may consider the results of the fuel supply forecast in section 11 of this act, but is not bound in its decision-making discretion by the results of the forecast.

(b) If the department issues a deferral pursuant to this subsection, the department may:

(i) Direct the person subject to the deferral to file a progress report on achieving full compliance with the requirements of this chapter within an amount of time determined to be reasonable by the department; and

(ii) Direct the person to take specific actions to achieve full compliance with the requirements of this chapter.

(c) The issuance of a deferral under this subsection does not permanently relieve the deferral recipient of the obligation to comply with the requirements of this chapter.

NEW SECTION. Sec. 14. (1) The department may require that persons that are required or elect to register or report under this chapter pay a fee. If the department elects to require program participants to pay a fee, the department must, after an opportunity for public review and comment, adopt rules to establish a process to determine the payment schedule and the amount of the fee charged. The amount of the fee must be set so as to equal but not exceed the projected direct and indirect costs to the department for developing and implementing the program and the projected direct and indirect costs to the department of commerce to carry out its responsibilities under section 11 of this act. The department and the department of commerce must prepare a biennial workload analysis and provide an opportunity for public review of and comment on the workload analysis. The department shall enter into an interagency agreement with the department of commerce to implement this section.

(2) The clean fuels program account is created in the state treasury. All receipts from fees and penalties received under the program created in this chapter must be deposited into the account. Moneys in the account may be spent only after appropriation. The department may only use expenditures from the account for carrying out the program created in this chapter.

(3) All rule making authorized under this act must be conducted according to the standards for significant legislative rules provided in RCW 34.05.328.

NEW SECTION. Sec. 15. (1) By December 1, 2030, the joint legislative audit and review committee must analyze the impacts of the initial five years of clean fuels program implementation and must submit a report summarizing the analysis to the legislature. The analysis must include, at minimum, the following components:

(a) Costs and benefits, including environmental and public health costs and benefits, associated with this chapter for categories of persons participating in the clean fuels program or that are most impacted by air pollution, as defined in consultation with the departments of ecology and health and as measured on a census tract scale. This component of the analysis must, at minimum, assess the costs and benefits of changes in the following metrics since the start of the program:

(i) Levels of greenhouse gas emissions and criteria air pollutants for which the United States environmental protection agency has established national ambient air quality standards;

(ii) Fuel prices; and

(iii) Total employment in categories of industries generating credits or deficits. The categories of industries assessed must include but are not limited to electric utilities, oil refineries, and other industries involved in the production of high carbon fuels, industries involved in the delivery and sale of high carbon fuels, biofuel refineries, and industries involved in the delivery and sale of low carbon fuels;

(b) An evaluation of the information calculated and provided by the department under section 10(1) of this act;

(c) A summary of the estimated total statewide costs and benefits attributable to the clean fuels program, including state agency administrative costs and regulated entity compliance costs. For purposes of calculating the benefits of the program, the summary may rely, in part, on a constant value of the social costs attributable to greenhouse gas emissions, as identified in contemporary internationally accepted estimates of such global social cost. This summary must include an estimate of the total statewide costs of the program per ton of greenhouse gas emissions reductions achieved by the clean fuels program;

(d) An evaluation of the impacts of the program on low-income households; and

(e) The outcomes of proposals to site biofuel facilities through the energy facility site evaluation council review process that is allowed by RCW 80.50.060(2).

(2) This section expires June 30, 2030.

NEW SECTION. Sec. 16. A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts received from the generation, purchase, sale, transfer, or retirement of credits under chapter 70A.--- RCW (the new chapter created in section 29 of this act).

(2) The provisions of RCW 82.32.805 and 82.32.808 do not apply to subsection (1) of this section.

Sec. 17. RCW 80.50.020 and 2010 c 152 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) "Alternative energy resource" includes energy facilities of the following types: (a) Wind; (b) solar energy; (c) geothermal energy; (d) landfill gas; (e) wave or tidal action; or (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include

wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(2) "Applicant" means any person who makes application for a site certification pursuant to the provisions of this chapter.

(3) "Application" means any request for approval of a particular site or sites filed in accordance with the procedures established pursuant to this chapter, unless the context otherwise requires.

(4) "Associated facilities" means storage, transmission, handling, or other related and supporting facilities connecting an energy plant with the existing energy supply, processing, or distribution system, including, but not limited to, communications, controls, mobilizing or maintenance equipment, instrumentation, and other types of ancillary transmission equipment, off-line storage or venting required for efficient operation or safety of the transmission system and overhead, and surface or subsurface lines of physical access for the inspection, maintenance, and safe operations of the transmission facility and new transmission lines constructed to operate at nominal voltages of at least 115,000 volts to connect a thermal power plant or alternative energy facilities to the northwest power grid. However, common carrier railroads or motor vehicles shall not be included.

(5) "Biofuel" (~~has the same meaning as defined in RCW 43.325.010~~) means a liquid or gaseous fuel derived from organic matter intended for use as a transportation fuel including, but not limited to, biodiesel, renewable diesel, ethanol, renewable natural gas, and renewable propane.

(6) "Certification" means a binding agreement between an applicant and the state which shall embody compliance to the siting guidelines, in effect as of the date of certification, which have been adopted pursuant to RCW 80.50.040 as now or hereafter amended as conditions to be met prior to or concurrent with the construction or operation of any energy facility.

(7) "Construction" means on-site improvements, excluding exploratory work, which cost in excess of two hundred fifty thousand dollars.

(8) "Council" means the energy facility site evaluation council created by RCW 80.50.030.

(9) "Counsel for the environment" means an assistant attorney general or a special assistant attorney general who shall represent the public in accordance with RCW 80.50.080.

(10) "Electrical transmission facilities" means electrical power lines and related equipment.

(11) "Energy facility" means an energy plant or transmission facilities: PROVIDED, That the following are excluded from the provisions of this chapter:

(a) Facilities for the extraction, conversion, transmission or storage of water, other than water specifically consumed or discharged by energy production or conversion for energy purposes; and

(b) Facilities operated by and for the armed services for military purposes or by other federal authority for the national defense.

(12) "Energy plant" means the following facilities together with their associated facilities:

(a) Any nuclear power facility where the primary purpose is to produce and sell electricity;

(b) Any nonnuclear stationary thermal power plant with generating capacity of three hundred fifty thousand kilowatts or more, measured using maximum continuous electric generating capacity, less minimum auxiliary load, at average ambient temperature and pressure, and floating thermal power plants of one hundred thousand kilowatts or more suspended on the surface of water by means of a barge, vessel, or other floating platform;

(c) Facilities which will have the capacity to receive liquefied natural gas in the equivalent of more than one hundred million standard cubic feet of natural gas per day, which has been transported over marine waters;

(d) Facilities which will have the capacity to receive more than an average of fifty thousand barrels per day of crude or refined petroleum or liquefied petroleum gas which has been or will be transported over marine waters, except that the provisions of this chapter shall not apply to storage facilities unless occasioned by such new facility construction;

(e) Any underground reservoir for receipt and storage of natural gas as defined in RCW 80.40.010 capable of delivering an average of more than one hundred million standard cubic feet of natural gas per day; ~~(and)~~

(f) Facilities capable of processing more than twenty-five thousand barrels per day of petroleum or biofuel into refined products except where such biofuel production is undertaken at existing industrial facilities; and

(g) Facilities capable of producing more than one thousand five hundred barrels per day of refined biofuel but less than twenty-five thousand barrels of refined biofuel.

(13) "Independent consultants" means those persons who have no financial interest in the applicant's proposals and who are retained by the council to evaluate the applicant's proposals, supporting studies, or to conduct additional studies.

(14) "Land use plan" means a comprehensive plan or land use element thereof adopted by a unit of local government pursuant to chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise designated by chapter 325, Laws of 2007.

(15) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

(16) "Preapplicant" means a person considering applying for a site certificate agreement for any transmission facility.

(17) "Preapplication process" means the process which is initiated by written correspondence from the preapplicant to the council, and includes the process adopted by the council for consulting with the preapplicant and with cities, towns, and counties prior to accepting applications for all transmission facilities.

(18) "Secretary" means the secretary of the United States department of energy.

(19) "Site" means any proposed or approved location of an energy facility, alternative energy resource, or electrical transmission facility.

(20) "Thermal power plant" means, for the purpose of certification, any electrical generating facility using any fuel for distribution of electricity by electric utilities.

(21) "Transmission facility" means any of the following together with their associated facilities:

(a) Crude or refined petroleum or liquid petroleum product transmission pipeline of the following dimensions: A pipeline larger than six inches minimum inside diameter between valves for the transmission of these products with a total length of at least fifteen miles;

(b) Natural gas, synthetic fuel gas, or liquefied petroleum gas transmission pipeline of the following dimensions: A pipeline larger than fourteen inches minimum inside diameter between valves, for the transmission of these products, with a total length of at least fifteen miles for the purpose of delivering gas to a distribution facility, except an interstate natural gas pipeline regulated by the United States federal power commission.

(22) "Zoning ordinance" means an ordinance of a unit of local government regulating the use of land and adopted pursuant to chapter 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state Constitution, or as otherwise designated by chapter 325, Laws of 2007.

Sec. 18. RCW 80.50.060 and 2007 c 325 s 2 are each amended to read as follows:

(1) ~~((The))~~ Except for biofuel refineries specified in RCW 80.50.020(12)(g), the provisions of this chapter apply to the construction of energy facilities which includes the new construction of energy facilities and the reconstruction or enlargement of existing energy facilities where the net increase in physical capacity or dimensions resulting from such reconstruction or enlargement meets or exceeds those capacities or dimensions set forth in RCW 80.50.020 ~~((7))~~ (12) and ~~((15))~~ (21). No construction of such energy facilities may be undertaken, except as otherwise provided in this chapter, after July 15, 1977, without first obtaining certification in the manner provided in this chapter.

(2) The provisions of this chapter apply to the construction, reconstruction, or enlargement of a new or existing biofuel refinery specified in RCW 80.50.020(12)(g) or a new or existing energy facility that exclusively uses alternative energy resources and chooses to receive certification under this chapter, regardless of the generating capacity of the project.

(3)(a) The provisions of this chapter apply to the construction, reconstruction, or modification of electrical transmission facilities when:

(i) The facilities are located in a national interest electric transmission corridor as specified in RCW 80.50.045;

(ii) An applicant chooses to receive certification under this chapter, and the facilities are: (A) Of a nominal voltage of at least one hundred fifteen thousand volts and are located in a completely new corridor, except for the terminus of the new facility or interconnection of the new facility with the existing grid, and the corridor is not otherwise used for electrical transmission facilities; and (B) located in more than one jurisdiction that has promulgated land use plans or zoning ordinances; or

(iii) An applicant chooses to receive certification under this chapter, and the facilities are: (A) Of a nominal voltage in excess of one hundred fifteen thousand volts; and (B) located outside an electrical transmission corridor identified in (a)(i) and (ii) of this subsection (3).

(b) For the purposes of this subsection, "modify" means a significant change to an electrical transmission facility and does not include the following: (i)

Minor improvements such as the replacement of existing transmission line facilities or supporting structures with equivalent facilities or structures; (ii) the relocation of existing electrical transmission line facilities; (iii) the conversion of existing overhead lines to underground; or (iv) the placing of new or additional conductors, supporting structures, insulators, or their accessories on or replacement of supporting structures already built.

(4) The provisions of this chapter shall not apply to normal maintenance and repairs which do not increase the capacity or dimensions beyond those set forth in RCW 80.50.020 (~~((7))~~) (12) and (~~((15))~~) (21).

(5) Applications for certification of energy facilities made prior to July 15, 1977, shall continue to be governed by the applicable provisions of law in effect on the day immediately preceding July 15, 1977, with the exceptions of RCW 80.50.190 and 80.50.071 which shall apply to such prior applications and to site certifications prospectively from July 15, 1977.

(6) Applications for certification shall be upon forms prescribed by the council and shall be supported by such information and technical studies as the council may require.

Sec. 19. RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each amended to read as follows:

(1) A person applying for a motor vehicle registration and paying the vehicle license fee required in RCW 46.17.350(1) (a), (d), (e), (h), (j), (n), and (o) shall pay a motor vehicle weight fee in addition to all other fees and taxes required by law.

(a) For vehicle registrations that are due or become due before July 1, 2016, the motor vehicle weight fee:

(i) Must be based on the motor vehicle scale weight;

(ii) Is the difference determined by subtracting the vehicle license fee required in RCW 46.17.350 from the license fee in Schedule B of RCW 46.17.355, plus two dollars; and

(iii) Must be distributed under RCW 46.68.415.

(b) For vehicle registrations that are due or become due on or after July 1, 2016, the motor vehicle weight fee:

(i) Must be based on the motor vehicle scale weight as follows:

WEIGHT	FEE
4,000 pounds	\$ 25.00
6,000 pounds	\$ 45.00
8,000 pounds	\$ 65.00
16,000 pounds and over	\$ 72.00;

(ii) If the resultant motor vehicle scale weight is not listed in the table provided in (b)(i) of this subsection, must be increased to the next highest weight; and

(iii) Must be distributed under RCW 46.68.415 unless prior to July 1, 2023, the actions described in (b)(iii)(A) or (B) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in this subsection must be distributed to the connecting Washington account created under RCW 46.68.395.

(A) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(B) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(C) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(2) A person applying for a motor home vehicle registration shall, in lieu of the motor vehicle weight fee required in subsection (1) of this section, pay a motor home vehicle weight fee of seventy-five dollars in addition to all other fees and taxes required by law. The motor home vehicle weight fee must be distributed under RCW 46.68.415.

(3) Beginning July 1, 2022, in addition to the motor vehicle weight fee as provided in subsection (1) of this section, the department, county auditor or other agent, or subagent appointed by the director must require an applicant to pay an additional weight fee of ten dollars, which must be distributed to the multimodal transportation account under RCW 47.66.070 unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in this subsection must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(4) The department shall:

(a) Rely on motor vehicle empty scale weights provided by vehicle manufacturers, or other sources defined by the department, to determine the weight of each motor vehicle; and

(b) Adopt rules for determining weight for vehicles without manufacturer empty scale weights.

Sec. 20. RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each amended to read as follows:

(1) When a person has been disqualified from operating a commercial motor vehicle, the person is not entitled to have the commercial driver's license or commercial learner's permit restored until after the expiration of the appropriate disqualification period required under RCW 46.25.090 or until the department has received a drug and alcohol assessment and evidence is presented of satisfactory participation in or completion of any required drug or alcohol treatment program for ending the disqualification under RCW 46.25.090(7). After expiration of the appropriate period and upon payment of a requalification fee of twenty dollars until June 30, 2016, and thirty-five dollars beginning July 1, 2016, or one hundred fifty dollars if the person has been disqualified under RCW 46.25.090(7), the person may apply for a new, duplicate, or renewal commercial driver's license or commercial learner's permit as provided by law. If the person has been disqualified for a period of one year or more, the person shall demonstrate that he or she meets the commercial driver's license or commercial learner's permit qualification standards specified in RCW 46.25.060.

(2) The fees under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 208, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

Sec. 21. RCW 46.20.202 and 2017 c 310 s 3 are each amended to read as follows:

(1) The department may enter into a memorandum of understanding with any federal agency for the purposes of facilitating the crossing of the border between the state of Washington and the Canadian province of British Columbia.

(2) The department may enter into an agreement with the Canadian province of British Columbia for the purposes of implementing a border-crossing initiative.

(3)(a) The department may issue an enhanced driver's license or identicard for the purposes of crossing the border between the state of Washington and the Canadian province of British Columbia to an applicant who provides the department with proof of: United States citizenship, identity, and state residency. The department shall continue to offer a standard driver's license and identicard. If the department chooses to issue an enhanced driver's license, the department

must allow each applicant to choose between a standard driver's license or identicard, or an enhanced driver's license or identicard.

(b) The department shall implement a one-to-many biometric matching system for the enhanced driver's license or identicard. An applicant for an enhanced driver's license or identicard shall submit a biometric identifier as designated by the department. The biometric identifier must be used solely for the purpose of verifying the identity of the holders and for any purpose set out in RCW 46.20.037. Applicants are required to sign a declaration acknowledging their understanding of the one-to-many biometric match.

(c) The enhanced driver's license or identicard must include reasonable security measures to protect the privacy of Washington state residents, including reasonable safeguards to protect against unauthorized disclosure of data about Washington state residents. If the enhanced driver's license or identicard includes a radio frequency identification chip, or similar technology, the department shall ensure that the technology is encrypted or otherwise secure from unauthorized data access.

(d) The requirements of this subsection are in addition to the requirements otherwise imposed on applicants for a driver's license or identicard. The department shall adopt such rules as necessary to meet the requirements of this subsection. From time to time the department shall review technological innovations related to the security of identity cards and amend the rules related to enhanced driver's licenses and identicards as the director deems consistent with this section and appropriate to protect the privacy of Washington state residents.

(e) Notwithstanding RCW 46.20.118, the department may make images associated with enhanced drivers' licenses or identicards from the negative file available to United States customs and border agents for the purposes of verifying identity.

(4) Beginning on July 23, 2017, the fee for an enhanced driver's license or enhanced identicard is twenty-four dollars, which is in addition to the fees for any regular driver's license or identicard. If the enhanced driver's license or enhanced identicard is issued, renewed, or extended for a period other than six years, the fee for each class is four dollars for each year that the enhanced driver's license or enhanced identicard is issued, renewed, or extended.

(5) The enhanced driver's license and enhanced identicard fee under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 209, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

Sec. 22. RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each amended to read as follows:

(1) The department may issue a CLP to an applicant who is at least eighteen years of age and holds a valid Washington state driver's license and who has:

(a) Submitted an application on a form or in a format provided by the department;

(b) Passed the general knowledge examination required for issuance of a CDL under RCW 46.25.060 for the commercial motor vehicle classification in which the applicant operates or expects to operate; and

(c) Paid the appropriate examination fee or fees and an application fee of ten dollars until June 30, 2016, and forty dollars beginning July 1, 2016.

(2) A CLP must be marked "commercial learner's permit" or "CLP," and must be, to the maximum extent practicable, tamperproof. Other than a photograph of the applicant, it must include, but not be limited to, the information required on a CDL under RCW 46.25.080(1).

(3) The holder of a CLP may drive a commercial motor vehicle on a highway only when in possession of a valid driver's license and accompanied by the holder of a valid CDL who has the proper CDL classification and endorsement or endorsements necessary to operate the commercial motor vehicle. The CDL holder must at all times be physically present in the front seat of the vehicle next to the CLP holder or, in the case of a passenger vehicle, directly behind or in the first row behind the driver and must have the CLP holder under observation and direct supervision.

(4) A CLP may be classified in the same manner as a CDL under RCW 46.25.080(2)(a).

(5) CLPs may be issued with only P, S, or N endorsements as described in RCW 46.25.080(2)(b).

(a) The holder of a CLP with a P endorsement must have taken and passed the P endorsement knowledge examination. The holder of a CLP with a P endorsement is prohibited from operating a commercial motor vehicle carrying passengers other than authorized employees or representatives of the department and the federal motor carrier safety administration, examiners, other trainees, and the CDL holder accompanying the CLP holder as required under subsection (2) of this section. The P endorsement must be class specific.

(b) The holder of a CLP with an S endorsement must have taken and passed the S endorsement knowledge examination. The holder of a CLP with an S endorsement is prohibited from operating a school bus with passengers other than authorized employees or representatives of the department and the federal motor carrier safety administration, examiners, other trainees, and the CDL holder accompanying the CLP holder as required under subsection (2) of this section.

(c) The holder of a CLP with an N endorsement must have taken and passed the N endorsement knowledge examination. The holder of a CLP with an N endorsement may only operate an empty tank vehicle and is prohibited from

operating any tank vehicle that previously contained hazardous materials and has not been purged of any residue.

(6) A CLP may be issued with appropriate restrictions as described in RCW 46.25.080(2)(c). In addition, a CLP may be issued with the following restrictions:

(a) "P" restricts the driver from operating a bus with passengers;

(b) "X" restricts the driver from operating a tank vehicle that contains cargo; and

(c) Any restriction as established by rule of the department.

(7) The holder of a CLP is not authorized to operate a commercial motor vehicle transporting hazardous materials.

(8) A CLP may not be issued for a period to exceed one hundred eighty days. The department may renew the CLP for one additional one hundred eighty-day period without requiring the CLP holder to retake the general and endorsement knowledge examinations.

(9) The department must transmit the fees collected for CLPs to the state treasurer for deposit in the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 206, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

Sec. 23. RCW 46.25.060 and 2020 c 78 s 2 are each amended to read as follows:

(1)(a) No person may be issued a commercial driver's license unless that person:

(i) Is a resident of this state;

(ii) Has successfully completed a course of instruction in the operation of a commercial motor vehicle that has been approved by the director or has been certified by an employer as having the skills and training necessary to operate a commercial motor vehicle safely;

(iii) If he or she does not hold a valid commercial driver's license of the appropriate classification, has been issued a commercial learner's permit under RCW 46.25.052; and

(iv) Has passed a knowledge and skills examination for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. Part 383, subparts F,

G, and H, in addition to other requirements imposed by state law or federal regulation. The department may not allow the person to take the skills examination during the first fourteen days after initial issuance of the person's commercial learner's permit. The examinations must be prescribed and conducted by the department.

(b) In addition to the fee charged for issuance or renewal of any license, the applicant shall pay a fee of no more than ten dollars until June 30, 2016, and thirty-five dollars beginning July 1, 2016, for the classified knowledge examination, classified endorsement knowledge examination, or any combination of classified license and endorsement knowledge examinations. The applicant shall pay a fee of no more than one hundred dollars until June 30, 2016, and two hundred fifty dollars beginning July 1, 2016, for each classified skill examination or combination of classified skill examinations conducted by the department.

(c) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills examination specified by this section under the following conditions:

(i) The examination is the same which would otherwise be administered by the state;

(ii) The third party has entered into an agreement with the state that complies with the requirements of 49 C.F.R. Sec. 383.75; and

(iii) The director has adopted rules as to the third party testing program and the development and justification for fees charged by any third party.

(d) If the applicant's primary use of a commercial driver's license is for any of the following, then the applicant shall pay a fee of no more than seventy-five dollars until June 30, 2016, and two hundred twenty-five dollars beginning July 1, 2016, for the classified skill examination or combination of classified skill examinations whether conducted by the department or a third-party tester:

(i) Public benefit not-for-profit corporations that are federally supported head start programs; or

(ii) Public benefit not-for-profit corporations that support early childhood education and assistance programs as described in RCW 43.216.505.

(e) Beginning July 1, 2016, if the applicant's primary use of a commercial driver's license is to drive a school bus, the applicant shall pay a fee of no more than one hundred dollars for the classified skill examination or combination of classified skill examinations conducted by the department.

(f) Beginning July 1, 2016, payment of the examination fees under this subsection entitles the applicant to take the examination up to two times in order to pass.

(2)(a) The department may waive the skills examination and the requirement for completion of a course of instruction in the operation of a commercial motor vehicle specified in this section for a commercial driver's license applicant who meets the requirements of 49 C.F.R. Sec. 383.77. For current or former military service members that meet the requirements of 49 C.F.R. Sec. 383.77, the department may also waive the requirements for a knowledge test for commercial driver's license applicants. Beginning December 1, 2021, the department shall provide an annual report to the house and senate

transportation committees and the joint committee on veterans' and military affairs of the legislature on the number and types of waivers granted pursuant to this subsection.

(b) An applicant who operates a commercial motor vehicle for agribusiness purposes is exempt from the course of instruction completion and employer skills and training certification requirements under this section. By January 1, 2010, the department shall submit recommendations regarding the continuance of this exemption to the transportation committees of the legislature. For purposes of this subsection (2)(b), "agribusiness" means a private carrier who in the normal course of business primarily transports:

(i) Farm machinery, farm equipment, implements of husbandry, farm supplies, and materials used in farming;

(ii) Agricultural inputs, such as seed, feed, fertilizer, and crop protection products;

(iii) Unprocessed agricultural commodities, as defined in RCW 17.21.020, where such commodities are produced by farmers, ranchers, vineyardists, or orchardists; or

(iv) Any combination of (b)(i) through (iii) of this subsection.

The department shall notify the transportation committees of the legislature if the federal government takes action affecting the exemption provided in this subsection (2)(b).

(3) A commercial driver's license or commercial learner's permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked, or canceled in any state, nor may a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

(4) The fees under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 207, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

Sec. 24. RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended to read as follows:

(1) Any person who knowingly violates any of the provisions of this chapter (~~((~~¶~~))~~, chapter 70A.25 or 70A.--- (the new chapter created in section 29 of this act) RCW, RCW 70A.45.080, or any ordinance, resolution, or regulation in force pursuant thereto is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for up to three hundred sixty-four days, or by both for each separate violation.

(2) Any person who negligently releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a gross misdemeanor and shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for up to three hundred sixty-four days, or both.

(3) Any person who knowingly releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a class C felony and shall, upon conviction, be punished by a fine of not less than fifty thousand dollars, or by imprisonment for not more than five years, or both.

(4) Any person who knowingly fails to disclose a potential conflict of interest under RCW 70A.15.2000 is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars.

Sec. 25. RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended to read as follows:

(1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, and in addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of this chapter, chapter 70A.25 (~~((~~¶~~))~~, 70A.450, or 70A.--- (the new chapter created in section 29 of this act) RCW, RCW 70A.45.080, or any of the rules in force under such chapters or section may incur a civil penalty in an amount not to exceed ten thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

(b) Any person who fails to take action as specified by an order issued pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars for each day of continued noncompliance.

(2)(a) Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

(b) The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the state office of the economic and revenue forecast council.

(3) Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and

subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.

(4) All penalties recovered under this section by the department shall be paid into the state treasury and credited to the air pollution control account established in RCW 70A.15.1010 or, if recovered by the authority, shall be paid into the treasury of the authority and credited to its funds. If a prior penalty for the same violation has been paid to a local authority, the penalty imposed by the department under subsection (1) of this section shall be reduced by the amount of the payment.

(5) To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.

(6) Public or private entities that are recipients or potential recipients of department grants, whether for air quality related activities or not, may have such grants rescinded or withheld by the department for failure to comply with provisions of this chapter.

(7) In addition to other penalties provided by this chapter, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(8) The department shall develop rules for excusing excess emissions from enforcement action if such excess emissions are unavoidable. The rules shall specify the criteria and procedures for the department and local air authorities to determine whether a period of excess emissions is excusable in accordance with the state implementation plan.

Sec. 26. RCW 19.112.110 and 2013 c 225 s 601 are each amended to read as follows:

(1) Special fuel licensees under chapter 82.38 RCW, as determined by the department of licensing, must provide evidence to the department of licensing that at least two percent of the total annual diesel fuel sold in Washington is biodiesel or renewable diesel fuel, following the earlier of: (a) November 30, 2008; or (b) when a determination is made by the director, published in the Washington State Register, that feedstock grown in Washington state can satisfy a two-percent requirement.

(2) Special fuel licensees under chapter 82.38 RCW, as determined by the department of licensing, must provide evidence to the department of licensing that at least five percent of total annual diesel fuel sold in Washington is biodiesel or renewable diesel fuel, when the director determines, and publishes this determination in the Washington State Register, that both in-state oil seed crushing capacity and feedstock grown in Washington state can satisfy a three-percent requirement.

(3) The requirements of subsections (1) and (2) of this section may take effect no sooner than one hundred eighty days after the determination has been published in the Washington State Register.

(4) The director and the director of licensing must each adopt rules, in coordination with each other, for enforcing and carrying out the purposes of this section.

(5) To the extent that the requirements of this section conflict with the requirements of chapter 70A.--- (the new chapter created in section 29 of this act) RCW, the requirements of chapter 70A.--- (the new chapter created in section 29 of this act) RCW prevail.

Sec. 27. RCW 19.112.120 and 2013 c 225 s 602 are each amended to read as follows:

(1) By December 1, 2008, motor vehicle fuel licensees under chapter 82.38 RCW, as determined by the department of licensing, must provide evidence to the department of licensing that at least two percent of total gasoline sold in Washington, measured on a quarterly basis, is denatured ethanol.

(2) If the director of ecology determines that ethanol content greater than two percent of the total gasoline sold in Washington will not jeopardize continued attainment of the federal clean air act's national ambient air quality standard for ozone pollution in Washington and the director of agriculture determines and publishes this determination in the Washington State Register that sufficient raw materials are available within Washington to support economical production of ethanol at higher levels, the director of agriculture may require by rule that licensees provide evidence to the department of licensing that denatured ethanol comprises between two percent and at least ten percent of total gasoline sold in Washington, measured on a quarterly basis.

(3) The requirements of subsections (1) and (2) of this section may take effect no sooner than one hundred eighty days after the determination has been published in the Washington State Register.

(4) The director and the director of licensing must each adopt rules, in coordination with each other, for enforcing and carrying out the purposes of this section.

(5) Nothing in this section is intended to prohibit the production, sale, or use of motor fuel for use in federally designated flexibly fueled vehicles capable of using E85 motor fuel. Nothing in this section is intended to limit the use of high octane gasoline not blended with ethanol for use in aircraft.

(6) To the extent that the requirements of this section conflict with the requirements of chapter 70A.--- (the new chapter created in section 29 of this act) RCW, the requirements of chapter 70A.--- (the new chapter created in section 29 of this act) RCW prevail.

NEW SECTION. Sec. 28. A new section is added to chapter 43.21A RCW to read as follows:

(1) The department, in coordination with the department of commerce and other agencies as appropriate, must develop recommendations for potential improvements to the permitting processes for industrial projects and facilities in Washington that would contribute to achieving greenhouse gas emissions limits established under RCW 70A.45.020 while maintaining standards for the protection of the environment and the preservation of tribal consultation and treaty rights. The department must provide increased clarity on areas in the state that may be suitable for siting projects that have a lower potential for negative environmental impacts, especially to highly impacted communities as defined in RCW 19.405.020 and identify strategies for minimizing and mitigating negative environmental impacts where possible. The department must provide clear guidance and direction intended to improve project proposals, recommend

policy and administrative improvements necessary to improve the permitting process, and recommend any additional studies needed. The department shall convene businesses, local governments, community organizations, and environmental and labor stakeholders, and consult with tribes.

(2) The department and the department of commerce shall produce and submit to the governor and the legislature an interim progress report with initial policy proposal recommendations for the 2022 legislative session by December 1, 2021, and a final report including findings, recommendations, and further policy proposals by December 1, 2022.

(3) This section expires June 30, 2023.

NEW SECTION. Sec. 29. Sections 1 through 15 of this act constitute a new chapter in Title 70A RCW.

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

NEW SECTION. Sec. 31. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. In the event that there is litigation on the provisions of section 3(6) of this act or any other provision of this act, it is the intent of the legislature that the remainder of the act shall continue to be enforced and if such provisions are held invalid, the remainder of the act shall not be affected.

Passed by the House April 25, 2021.

Passed by the Senate April 25, 2021.

Approved by the Governor May 17, 2021, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 18, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 3(8), Engrossed Third Substitute House Bill No. 1091 entitled:

"AN ACT Relating to reducing greenhouse gas emissions by reducing the carbon intensity of transportation fuel."

Subsection (8) of Section 3 operates to delay the assignment of compliance obligations or the generation of credits "under this chapter" until a separate additive transportation revenue act becomes law. Although a governor is generally limited to full section vetoes in policy bills, and our courts generally defer to the Legislature's designation of full sections, this deference is not without limits. The Legislature may not design or construct a section for the purpose, or with the effect, of circumventing a governor's veto authority. In this case, subsection (8), the delayed effective date, is embedded in Section 3, a section that primarily directs the Department of Ecology to adopt rules and establish standards. However, the delayed effective date in subsection (8) reaches far beyond Section 3 by delaying the Department's authority to assign compliance obligations or allow the generation of credits "under this chapter". Several other sections of the bill address both compliance obligations and the generation of credits, such as Sections 4, 5, 6, 7 and 8. Additionally, other sections impose obligations on the department that relate to compliance obligations and credits. Effective dates are typically standalone sections when they impact more than one section of a bill. This delayed effective date impacts many sections of the bill, perhaps the entire act, but it is embedded in a single section to prevent a veto. It strains the imagination to discern any reason for embedding into a single section a delayed effective date that impacts not just that one section but also multiple additional sections, unless that reason is to prevent it from being vetoed. This type of legislative drafting demonstrates manipulation and is a palpable attempt at dissimulation, which our Supreme Court in

Legislature v. Lowry, 131 Wn.2d 309 (1997), has ruled will not stand. As a result, I am vetoing Section 3(8) as a *de facto* section. I applaud the extraordinary efforts of the Legislature in moving this policy forward, but we cannot delay its implementation until some unknown time in the future—the crisis is now, and we must act now.

For these reasons I have vetoed Section 3(8) of Engrossed Third Substitute House Bill No. 1091.

With the exception of Section 3(8), Engrossed Third Substitute House Bill No. 1091 is approved."

CHAPTER 318

[Engrossed Substitute House Bill 1267]

OFFICE OF INDEPENDENT INVESTIGATIONS—POLICE USE OF FORCE

AN ACT Relating to investigation of potential criminal conduct arising from police use of force, including custodial injuries, and other officer-involved incidents; amending RCW 10.93.020, 39.26.125, and 10.114.011; adding a new section to chapter 41.06 RCW; adding a new chapter to Title 43 RCW; creating new sections; and providing an expiration date.

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

NEW SECTION. Sec. 101. INTENT. The legislature finds that there has been an outpouring of frustration, anger, and demand for change from many members of the public over the deaths of people of color resulting from encounters with police. The most recent deaths in the United States and within Washington are a call to lead our state to a new system for investigating deaths and other serious incidents involving law enforcement officers.

The legislature intends that the office of independent investigations be created to conduct investigations of use of force and other cases under its jurisdiction in a manner that is competent, unbiased, and thorough. The office will be transparent and accountable for its work. The office should ensure that it treats all people with dignity and respect. The director and staff must be qualified and trained to conduct the investigations, including training to understand the impact and effect of racism in the investigation and use of an antiracist lens to conduct their work.

It is intended that this office will assume responsibility for investigations of serious use of force incidents and refer the reports on the investigation to the prosecutorial entity to determine if the action was justified, or if there was criminal action such that criminal charges should be filed. This is the same criminal investigative inquiry that is currently conducted when there is an officer-involved incident. The legislature does not intend to create a new type of investigation or that the office should be involved in any administrative review of conduct or complaints to police agencies about officer conduct related to policy or procedure. The process created in this act is intended to change only who investigates the incident. It does not change the nature of the investigation and involves only an investigation to determine justification or whether criminal charges are appropriate.

NEW SECTION. Sec. 201. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory board" means the office of independent investigations advisory board.

(2) "Deadly force" has the meaning provided in RCW 9A.16.010.

(3) "Director" means the director of the office of independent investigations.

(4) "Great bodily harm" has the meaning provided in RCW 9A.04.110.

(5) "In-custody" refers to a person who is under the physical control of a general authority Washington law enforcement agency or a limited authority Washington law enforcement agency as defined in RCW 10.93.020 or a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(6) "Independent investigation team" means a team of qualified and certified peace officer investigators, civilian crime scene specialists, and other representatives who operate independently of any involved agency to conduct investigations of police deadly force incidents. An independent investigation team may be comprised of multiple law enforcement agencies who jointly investigate police use of force incidents in their geographical regions or may be a single law enforcement agency, provided it is not the involved agency.

(7) "Involved agency" means a general authority Washington law enforcement agency or limited authority Washington law enforcement agency, as defined in RCW 10.93.020, that employs or supervises the officer or officers who are an involved officer as defined in this section, or an agency responsible for a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(8) "Involved officer" means one of the following persons who is involved in an incident as an actor or custodial officer in which the act or omission by the individual is within the scope of the jurisdiction of the office as defined in this chapter:

(a) A general authority Washington peace officer, specially commissioned Washington peace officer, or limited authority Washington peace officer, as defined in RCW 10.93.020, whether on or off duty if he or she is exercising his or her authority as a peace officer; or

(b) An individual while employed in a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(9) "Office" means the office of independent investigations.

(10) "Substantial bodily harm" has the same meaning as in RCW 9A.04.110.

Office Creation

NEW SECTION. Sec. 301. CREATION. (1) The office of independent investigations is hereby established within the office of the governor for the purpose of conducting fair, thorough, transparent, and competent investigations as authorized under this chapter.

(2) The office of independent investigations is an investigative law enforcement agency, including for the purposes of the public records act, chapter 42.56 RCW.

NEW SECTION. Sec. 302. OFFICE POWERS AND DUTIES. In addition to other responsibilities set forth in this chapter, the office shall:

(1) Conduct fair, thorough, transparent, and competent investigations of police use of force and other incidents involving law enforcement as authorized in this chapter and shall prioritize investigations conducted by the office based on resources and other criteria developed in consultation with the advisory board. The office shall commence investigations as follows:

(a) Beginning no later than July 1, 2022, the office is authorized to conduct investigations of deadly force cases occurring after July 1, 2022, including any incident involving use of deadly force by an involved officer against or upon a person who is in-custody or out-of-custody; and

(b) Beginning no later than July 1, 2023, the office is authorized to review, and may investigate, prior investigations of deadly force by an involved officer if new evidence is brought forth that was not included in the initial investigation;

(2) Analyze data available to the office and provide reports and recommendations as appropriate based on the data regarding issues, trends, and other relevant areas;

(3) Provide reports on activities of the office as authorized under this chapter; and

(4) Carry out such other responsibilities as may be consistent with this chapter.

NEW SECTION. Sec. 303. DIRECTOR. (1)(a) The governor shall appoint the director of the office and determine the director's compensation. The governor shall select the director from a list of three candidates recommended by the advisory board unless the governor declines to select any of the candidates provided. If the governor declines to select a candidate proposed by the advisory board, the governor may request the advisory board to provide additional qualified nominees for consideration or may offer an alternative candidate who may be appointed following approval by a majority of the advisory board.

(b) Prior to selecting the director, the governor shall consider the results of a background check, including an assessment of criminal history, and research of social media and affiliations to check for racial bias and conflicts of interest.

(2) The director shall hold office for a term of three years and continue to hold office until reappointed or until his or her successor is appointed. The governor may remove the director prior to the expiration of the director's term for neglect of duty, misconduct, or inability to perform duties.

NEW SECTION. Sec. 304. DUTIES OF THE DIRECTOR. (1) The director shall:

(a) Oversee the duties and functions of the office and investigations conducted by the office pursuant to this chapter;

(b) Hire or contract with investigators and other personnel as the director considers necessary to perform investigations conducted by the office, and other duties as required, under this chapter;

(c) Plan and provide trainings for office personnel, including contracted investigators, that promote recognition of and respect for, the diverse races, ethnicities, and cultures of the state;

(d) Plan and provide training for advisory board members including training to utilize an antiracist lens in their duties as advisory board members;

(e) Publish reports of investigations conducted under this chapter;

(f) Enter into contracts and memoranda of understanding as necessary to implement the responsibilities of the office under this chapter;

(g) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(h) Develop the nondisclosure agreement required in section 501 of this act; and

(i) Perform the duties and exercise the powers that are set out in this chapter, as well as any additional duties and powers that may be prescribed.

(2) No later than February 1, 2022, in consultation with the advisory board, the director shall develop a plan to implement:

(a) Regional investigation teams and a system for promptly responding to incidents of deadly force under the jurisdiction of the office. The regional investigation teams should:

(i) Allow for prompt response to the incident requiring investigation; and

(ii) Include positions for team members who are not required to be designated as limited authority Washington peace officers;

(b) A system and requirements for involved agencies to notify the office of any incident under the jurisdiction of the office, which must include direction to agencies as to what incidents of force and injuries and other circumstances must be reported to the office, including the timing of such reports, provided that any incident involving substantial bodily harm, great bodily harm, or death is reported to the office immediately in accordance with section 402 of this act;

(c) The process to conduct investigations of cases under the jurisdiction of the office including, but not limited to:

(i) The office intake process following notification of an incident by an involved agency;

(ii) The assessment and response to the notification of the incident by the office, including direction to and coordination with the independent investigation team;

(iii) Determination and deployment of necessary resources for the regional investigation teams to conduct the investigations;

(iv) Determination of any conflicts with office investigators or others involved in the investigation to ensure no investigator has an existing conflict with an assigned case;

(v) Protocol and direction to the involved agency;

(vi) Protocol and direction to the independent investigation team;

(vii) Protocol and guidelines for contacts and engagement with the involved agency; and

(viii) Protocol for finalizing the completed investigation and referral to the entity responsible for the prosecutorial decision, including communication with the family and public regarding the completion of the investigation;

(d) A plan for the office's interaction, communications, and responsibilities to: The involved officer; the individual who is the subject of the action by the involved officer that is the basis of the case under investigation, and their families; the public; and other interested parties or stakeholders. The plan must consider the following:

(i) A process for consultation, notifications, and communications with the person, family, or representative of any person who is the subject of the action by the involved officer that is the basis of the case under investigation;

(ii) Translation services which may be utilized through employees or contracted services;

(iii) Support to access assistance or services to the extent possible; and

(iv) A process for situations in which a tribal member is involved in the case that ensures consultation with the federally recognized tribe, and notification of

the governor's office of Indian affairs within 24 hours in cases of deadly use of force;

(e) Training for employees and contractors of the office to begin prior to July 1, 2022; and

(f) Prioritization of cases for investigation.

(3) No later than December 1, 2023, in consultation with the advisory board, the director shall develop a proposal for training individuals who are nonlaw enforcement officers to conduct competent, thorough investigations of cases under the jurisdiction of the office. The proposal must establish a training plan with an objective that within five years of the date the office begins investigating deadly force cases the cases will be investigated by nonlaw enforcement officers. The director shall report such proposal to the governor and legislature by December 1, 2023. Any proposal offered by the director must ensure investigations are high quality, thorough, and competent.

(4) The director, in consultation with the advisory board, shall implement a plan to review prior investigations of deadly force by an involved officer if new evidence is brought forth that was not included in the initial investigation and investigate if determined appropriate based on the review. The director must prioritize the review or investigation of cases occurring prior to July 1, 2022, based on resources and other cases under investigation with the office.

NEW SECTION. Sec. 305. PERSONNEL. (1) The director may employ, or enter into contracts with, personnel as he or she determines necessary for the proper discharge of his or her duties. The director must request input from the advisory board on the hiring process and hiring goals, including diversity.

(2) The director may employ, or enter into contracts with, investigators to conduct investigations of cases under the jurisdiction of the office.

(a) The director shall consider the relevant experience and qualifications of the candidate including the extent to which he or she demonstrates experience or understanding of the following areas:

(i) Extensive experience with criminal investigations, including homicide investigations;

(ii) Behavioral health issues;

(iii) Youth cognitive development;

(iv) Trauma-informed interviewing;

(v) De-escalation techniques and utilization; and

(vi) Knowledge of Washington practices, including laws, policies, and procedures related to criminal law, criminal investigations, and policing.

(b) The director shall consider the following prior to employing an investigator:

(i) The investigators should not be commissioned law enforcement officers employed with any law enforcement agency as a peace officer at the time of application with the office.

(A) If the individual considered for a position as an investigator was a prior law enforcement officer, the director must conduct a review of prior disciplinary actions or complaints related to bias.

(B) The individual should not have been a commissioned law enforcement officer within 24 months of the date of the application for service as an investigator; and

(ii) The results of a background check that includes research of social media and affiliations to check for racial bias and conflicts of interest.

(c) Investigators employed or contracted with the office are prohibited from being simultaneously employed, commissioned, or have any business relationship, other than through the work of the office, with a general authority or limited authority Washington law enforcement agency, or county or city corrections agency.

(d) The director may not employ an individual who was a previously commissioned law enforcement officer who does not meet the criteria of this section without the approval of a majority of the advisory board.

(3) The director may employ or enter into contracts for services to provide additional personnel as needed to conduct investigations of cases under the jurisdiction of the office including, but not limited to, the following:

(a) Forensic services and crime scene investigators;

(b) Liaisons for community, family, and relations with a federally recognized tribe;

(c) Analysts, including analysts to conduct evaluations on use of force data;

(d) Mental health experts;

(e) Bilingual staff, translators, or interpreters;

(f) Other experts as needed; and

(g) All staffing and other needs for the office.

(4) The director shall ensure the following training is provided to staff and that there is a regular schedule for additional trainings during the course of employment:

(a) The director shall ensure that the director and staff involved in investigations, including any contracted investigators, engage in trainings that include the following areas. A training may include more than one of the following areas per training. A separate training course is not required for each topic.

(i) History of racism in policing, including tribal sovereignty and history of Native Americans within the justice system;

(ii) Implicit and explicit bias training;

(iii) Intercultural competency;

(iv) The use of a racial equity lens in conducting the work of the office;

(v) Antiracism training; and

(vi) Undoing institutional racism.

(b) The director shall ensure that investigators engage in the following training. A training may include more than one of the following areas per training. A separate training course is not required for each topic.

(i) Criminal investigations, including homicide investigations as appropriate for the assigned positions;

(ii) Washington practices, including Washington laws and policies, as well as relevant policing practices as appropriate;

(iii) Interviewing techniques; and

(iv) Other relevant trainings as needed.

NEW SECTION. Sec. 306. INVESTIGATORS. (1) The director shall designate investigator positions that are limited authority Washington peace officers as defined in RCW 10.93.020. The investigators designated as limited authority Washington peace officers have the authority to investigate any case

within the jurisdiction of the office and any criminal activity related to, or discovered in the course of, the investigation of the case under the jurisdiction of the incident that has a relationship to the investigation.

(2) Any investigator employed or contracted with the office for the purpose of conducting investigations may participate in the investigations of a case under the jurisdiction of the office. Only investigators who are limited authority Washington peace officers may be designated a lead investigator on any criminal investigation conducted by the office pursuant to this chapter.

Sec. 307. RCW 10.93.020 and 2006 c 284 s 16 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "General authority Washington law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, as distinguished from a limited authority Washington law enforcement agency, and any other unit of government expressly designated by statute as a general authority Washington law enforcement agency. The Washington state patrol and the department of fish and wildlife are general authority Washington law enforcement agencies.

(2) "Limited authority Washington law enforcement agency" means any agency, political subdivision, or unit of local government of this state, and any agency, department, or division of state government, having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor (~~control~~) and cannabis board, the office of the insurance commissioner, (~~and~~) the state department of corrections, and the office of independent investigations.

(3) "General authority Washington peace officer" means any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce the criminal laws of the state of Washington generally.

(4) "Limited authority Washington peace officer" means any full-time, fully compensated officer of a limited authority Washington law enforcement agency empowered by that agency to detect or apprehend violators of the laws in some or all of the limited subject areas for which that agency is responsible. A limited authority Washington peace officer may be a specially commissioned Washington peace officer if otherwise qualified for such status under this chapter.

(5) "Specially commissioned Washington peace officer", for the purposes of this chapter, means any officer, whether part-time or full-time, compensated or not, commissioned by a general authority Washington law enforcement agency to enforce some or all of the criminal laws of the state of Washington, who does not qualify under this chapter as a general authority Washington peace officer for

that commissioning agency, specifically including reserve peace officers, and specially commissioned full-time, fully compensated peace officers duly commissioned by the states of Oregon or Idaho or any such peace officer commissioned by a unit of local government of Oregon or Idaho. A reserve peace officer is an individual who is an officer of a Washington law enforcement agency who does not serve such agency on a full-time basis but who, when called by the agency into active service, is fully commissioned on the same basis as full-time peace officers to enforce the criminal laws of the state.

(6) "Federal peace officer" means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

(7) "Agency with primary territorial jurisdiction" means a city or town police agency which has responsibility for police activity within its boundaries; or a county police or sheriff's department which has responsibility with regard to police activity in the unincorporated areas within the county boundaries; or a statutorily authorized port district police agency or four-year state college or university police agency which has responsibility for police activity within the statutorily authorized enforcement boundaries of the port district, state college, or university.

(8) "Primary commissioning agency" means (a) the employing agency in the case of a general authority Washington peace officer, a limited authority Washington peace officer, ~~((an Indian))~~ a tribal peace officer from a federally recognized tribe, or a federal peace officer, and (b) the commissioning agency in the case of a specially commissioned Washington peace officer (i) who is performing functions within the course and scope of the special commission and (ii) who is not also a general authority Washington peace officer, a limited authority Washington peace officer, ~~((an Indian))~~ a tribal peace officer from a federally recognized tribe, or a federal peace officer.

(9) "Primary function of an agency" means that function to which greater than fifty percent of the agency's resources are allocated.

(10) "Mutual law enforcement assistance" includes, but is not limited to, one or more law enforcement agencies aiding or assisting one or more other such agencies through loans or exchanges of personnel or of material resources, for law enforcement purposes.

NEW SECTION. Sec. 308. INVESTIGATIONS—DUTIES AND POWERS. (1) The office has jurisdiction over, and is authorized to conduct investigations of, all cases and incidents as established within this section.

(2)(a) The director may cause an investigation to be conducted into any incident:

(i) Of a use of deadly force by an involved officer occurring after July 1, 2022, including any incident involving use of deadly force by an involved officer against or upon a person who is in-custody or out-of-custody; or

(ii) Involving prior investigations of deadly force by an involved officer if new evidence is brought forth that was not included in the initial investigation.

(b) This section applies only if, at the time of the incident:

(i) The involved officer was on duty; or

(ii) The involved officer was off duty but:

(A) Engaged in the investigation, pursuit, detention, or arrest of a person or otherwise exercising the powers of a general authority or limited authority Washington peace officer; or

(B) The incident involved equipment or other property issued to the official in relation to his or her duties.

(3) The director shall determine prioritization of investigations based on resources and other criteria which may be established in consultation with the advisory board. The director shall ensure that incidents occurring after the date the office begins investigating cases receive the highest priority for investigation.

(4) The investigation should include a review of the entire incident, including but not limited to events immediately preceding the incident that may have contributed to or influenced the outcome of the incident that are directly related to the incident under investigation.

(5) Upon receiving notification required in section 402 of this act of an incident under the jurisdiction of the office, the director:

(a) May cause the incident to be investigated in accordance with this chapter;

(b) May determine investigation is not appropriate for reasons including, but not limited to, the case not being in the category of prioritized cases; or

(c) If the director determines that the incident is not within the office's jurisdiction to investigate, the director shall decline to investigate, and shall give notice of the fact to the involved agency.

(6) If the director determines the case is to be investigated the director will communicate the decision to investigate to the involved agency and will thereafter be the lead investigative body in the case and have priority over any other state or local agency investigating the incident or a case that is under the jurisdiction of the office. The director will implement the process developed pursuant to section 304 of this act and conduct the appropriate investigation in accordance with the process.

(7) In conducting the investigation the office shall have access to reports and information necessary or related to the investigation in the custody and control of the involved agency and any law enforcement agency responding to the scene of the incident including, but not limited to, voice or video recordings, body camera recordings, and officer notes, as well as disciplinary and administrative records except those that might be statements conducted as part of an administrative investigation related to the incident.

(8) The investigation shall be concluded within 120 days of acceptance of the case for investigation. If the office is not able to complete the investigation within 120 days, the director shall report to the advisory board the reasons for the delay.

NEW SECTION. Sec. 309. CRIMINAL JUSTICE TRAINING COMMISSION. (1) The criminal justice training commission shall collaborate with the office to ensure office investigators receive sufficient training to attain the necessary requirements to conduct investigations under the jurisdiction of the office.

(2) The investigators of the office shall receive priority registration to criminal justice training commission trainings necessary to conduct investigations as required by this chapter.

NEW SECTION. Sec. 310. DATA AND RESEARCH. The office will conduct analysis of use of force and other data to the extent such data is available to the office. The director is authorized to enter into contracts or memoranda of understanding to access data as needed. If data is available, the office should, at a minimum, analyze and report annually: Analysis and research regarding any identified trends, patterns, or other situations identified by the data; and recommendations for improvements. After July 1, 2024, the office should also annually report recommendations, if any, for expanding the scope of investigations or jurisdiction of the office based on trends, data, or reports received by the agency.

NEW SECTION. Sec. 311. LIABILITY. No action or other proceeding may be instituted against the director, an investigator, or an employee or contractor in the office or a person exercising powers or performing duties at the direction of the director for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

NEW SECTION. Sec. 312. A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter do not apply in the office of independent investigations to the director, to one confidential secretary, and to any deputy or regional directors, if any.

Sec. 313. RCW 39.26.125 and 2012 c 224 s 14 are each amended to read as follows:

All contracts must be entered into pursuant to competitive solicitation, except for:

- (1) Emergency contracts;
- (2) Sole source contracts that comply with the provisions of RCW 39.26.140;
- (3) Direct buy purchases, as designated by the director. The director shall establish policies to define criteria for direct buy purchases. These criteria may be adjusted to accommodate special market conditions and to promote market diversity for the benefit of the citizens of the state of Washington;
- (4) Purchases involving special facilities, services, or market conditions, in which instances of direct negotiation is in the best interest of the state;
- (5) Purchases from master contracts established by the department or an agency authorized by the department;
- (6) Client services contracts;
- (7) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process when the director determines that a competitive solicitation process is not appropriate or cost-effective;
- (8) Off-contract purchases of Washington grown food when such food is not available from Washington sources through an existing contract. However, Washington grown food purchased under this subsection must be of an equivalent or better quality than similar food available through the contract and must be able to be paid from the agency's existing budget. This requirement also applies to purchases and contracts for purchases executed by state agencies, including institutions of higher education as defined in RCW 28B.10.016, under

delegated authority granted in accordance with this chapter or under RCW 28B.10.029;

(9) Contracts awarded to companies that furnish a service where the tariff is established by the utilities and transportation commission or other public entity;

(10) Intergovernmental agreements awarded to any governmental entity, whether federal, state, or local and any department, division, or subdivision thereof;

(11) Contracts for services that are necessary to the conduct of collaborative research if the use of a specific contractor is mandated by the funding source as a condition of granting funds;

(12) Contracts for architectural and engineering services as defined in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;

(13) Contracts for the employment of expert witnesses for the purposes of litigation; ~~((and))~~

(14) Contracts for bank supervision authorized under RCW ~~((30.38.040))~~ 30A.38.040; and

(15) Contracts for investigators awarded by the office of independent investigations as authorized under section 304 of this act.

Duty of Involved Agency

Sec. 401. RCW 10.114.011 and 2019 c 4 s 5 are each amended to read as follows:

Except as required by federal consent decree, federal settlement agreement, or federal court order, where the use of deadly force by a peace officer results in death, substantial bodily harm, or great bodily harm, an independent investigation must be completed to inform any determination of whether the use of deadly force met the good faith standard established in RCW 9A.16.040 and satisfied other applicable laws and policies. The investigation must be completely independent of the agency whose officer was involved in the use of deadly force and conducted in accordance with chapter 43.--- RCW (the new chapter created in section 601 of this act). ~~((The))~~ Any rules adopted by the criminal justice training commission must ~~((adopt rules establishing criteria to determine what qualifies as an independent investigation pursuant to this section))~~ be consistent with chapter 43.--- RCW (the new chapter created in section 601 of this act).

NEW SECTION. **Sec. 402.** NOTIFICATION OF DIRECTOR AND SECURING THE SCENE. (1) Following notification by the director that the office will accept investigations of cases under its jurisdiction after July 1, 2022, an involved agency shall notify the office of any incident by an involved officer in accordance with the requirements under section 304 of this act and pursuant to this section.

(a) If the incident involves use of deadly force by an involved officer that results in death, substantial bodily harm, or great bodily harm the involved agency must immediately contact the office pursuant to the procedure established by the director once the involved agency personnel and other first responders have rendered the scene safe and provided or facilitated lifesaving first aid to persons at the scene who have life-threatening injuries. This requirement does not affect the duty of law enforcement under RCW 36.28A.445.

(b) In all other cases, the involved agency must notify the office of the incident pursuant to the procedure established by the director.

(2)(a) In any case that requires notice to the director under this section, the involved agency shall ensure that any officers or employees over which the involved agency has authority who are at the scene of the incident take all lawful measures necessary for the purposes of protecting, obtaining, or preserving evidence relating to the incident until an office investigator, or independent investigation team at the request of the office, takes charge of the scene.

(b) The primary focus of the involved agency must be the protection and preservation of evidence in order to maintain the integrity of the scene until the office investigator or independent investigation team arrives or otherwise provides direction regarding activities at the scene. The involved agency should ensure that evidence, including but not limited to the following is protected and preserved:

(i) Physical evidence that is at risk of being destroyed or disappearing and cannot be easily reconstructed, including evidence which may be degraded or tainted by human or environmental factors if left unprotected or unpreserved;

(ii) Identification and contact information for witnesses to the incident; and

(iii) Photographs and other methods of documenting the location of physical evidence and location and perspective of witnesses.

(3)(a) When the office investigator, or independent investigation team acting at the request of the office, arrives at the scene of an incident under the jurisdiction of the office, the involved agency will relinquish control of the scene to the office investigator or independent investigation team upon the request of the office investigator. The involved agency has a duty to comply with the requests of the office related to the investigation conducted pursuant to this chapter.

(b) Once the scene is relinquished, no member of the involved agency may participate in any way in the investigation, with the exception of the use of specialized equipment that is necessary for the investigation and where no alternative exists. If there is any equipment of the involved agency used in the investigation, steps must be taken to appropriately limit the role of any involved agency personnel in facilitating the use of that equipment or their engagement with the investigation.

(4) If an independent investigation team takes control of the scene at the request of the office, the independent investigation team shall relinquish control of the scene and investigation at the request of the office when the office is on the scene or otherwise provides notice that the office is taking control of the scene. The independent investigation team may continue to engage in the investigation conducted at the scene if requested to do so by the lead office investigator, director, or the director's designee. The involvement of the independent investigation team is limited to activities requested by the office and must terminate following the securing of the scene and any evidence preservation or other actions as determined necessary by the office at the scene. The independent investigation team may not continue to participate in the ongoing investigation.

(5) No information about the ongoing independent investigation under the jurisdiction of the office may be shared with any member of the involved

agency, except limited briefings given to the chief or sheriff of the involved agency about the progress of the investigation.

(6) If the office declines to investigate a case, the authority and duty to investigate remains with the independent investigation team or local law enforcement authority with jurisdiction over the incident.

Office of Independent Investigations Advisory Board

NEW SECTION. Sec. 501. MEMBERSHIP AND DUTIES. (1)(a) There is created the office of independent investigations advisory board. The advisory board shall consist of the following 11 members, appointed by the governor, one of whom the governor shall designate as chair:

(i) Three members of the general public representing the community who are not current or former law enforcement, with preference given to individuals representing diverse communities;

(ii) One member of the general public representing a family impacted by an incident of the nature under the jurisdiction of the office, who is not current or former law enforcement;

(iii) One member representing a federally recognized tribe in Washington, who is not current or former law enforcement;

(iv) One defense attorney representative;

(v) One prosecuting attorney representative;

(vi) One representative of a police officer labor association with experience in homicide investigations;

(vii) One sheriff or police chief who is also a member of an independent investigation team;

(viii) One credentialed mental health expert who is not current or former law enforcement; and

(ix) One member of the criminal justice training commission.

(b) The members of the advisory board appointed by the governor shall be appointed for terms of three years and until their successors are appointed and confirmed. The governor shall stagger the initial appointment terms of the advisory board members with the terms of five members being for two years from the date of appointment and six members being 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 serve without compensation, but must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(c) The governor, when making appointments to the advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(2) The purpose of the advisory board is to provide input to the office and shall:

(a) Provide input to the governor on the selection of the director, including providing candidates for consideration for appointment for the position of director. If the governor requests additional candidates for consideration, the advisory board shall provide additional candidates to the governor. If the governor provides an alternative candidate, the advisory board must consider the candidate provided by the governor and vote on the approval or rejection of the candidate.

(i) The advisory board shall recommend candidates to the governor who they find are individuals with sound judgment, independence, objectivity, and integrity who will be viewed as a trustworthy director.

(ii) The director must have experience either in conducting criminal investigations or prosecutions. The advisory board shall consider the relevant experience and qualifications of the candidate including the extent to which they demonstrate experience or demonstrated understanding of the following areas:

(A) Criminal investigations;

(B) Organizational leadership;

(C) Mental health issues;

(D) Trauma-informed interviewing;

(E) Community leadership;

(F) Legal experience or background;

(G) Antioppression and antiracist analysis and addressing systemic inequities; and

(H) Working with Black, Indigenous, and communities of color;

(b) Provide input to the director on the plans required to be developed for the office including the regional investigation teams; staffing; training for personnel; procedures for engagement with individuals involved in any case under the jurisdiction of the office, as well as families and the community; recommendations to the legislature; and other input as requested by the governor or director;

(c) Participate in employment interviews as requested by the governor or director; and

(d) Receive briefings or reports from the director relating to data, trends, and other relevant issues, as well as cases under investigation to the extent permitted by law.

(3) Advisory board members have a duty to maintain the confidentiality of the information they receive during the course of their work on the advisory board. Each advisory board member shall agree in writing to not disclose any information they receive or otherwise access related to an investigation, including information about individuals involved in the investigation as involved officers, individuals who are the subject of police action, witnesses, and investigators.

(4) Advisory board members must complete training to utilize an antiracist lens in their duties as advisory board members.

(5) The office shall provide administrative and clerical assistance to the advisory board.

NEW SECTION. Sec. 502. REPORT. (1) In consultation with the director, the advisory board shall assess whether the jurisdiction of the office should be expanded to conduct investigations of other types of incidents committed by involved officers, including but not limited to other types of in-custody deaths not involving use of force but otherwise involving criminal acts committed by involved officers as well as sexual assaults committed by involved officers, subject to the same standard under section 308(2)(b) of this act. The advisory board must consider available data and information on other types of in custody deaths not involving use of force but otherwise involving criminal acts committed by involved officers as well as other types of incidents, the capacity and resources of the office, and any modifications or additions to procedures and

processes necessary for the office to conduct investigations of those incidents. The advisory board must consider the recommendations and counsel of the director when conducting the assessment under this section.

(2) At the request of the advisory board, the office shall conduct analysis of available data, including identified trends and patterns, and other information relevant to in-custody deaths involving criminal acts committed by involved officers, sexual assaults committed by involved officers, and other types of incidents as requested by the advisory board.

(3) The advisory board shall submit a report with related recommendations to the legislature and governor by November 1, 2023.

(4) For the purposes of this section, "in-custody death" means a death of an individual while under physical control of a general authority Washington law enforcement agency or a limited authority Washington law enforcement agency as defined in RCW 10.93.020 or a city, county, or regional adult or juvenile institution, correctional, jail, holding, or detention facility as defined in RCW 70.48.020, 72.09.015, or 13.40.020.

(5) This section expires July 1, 2024.

Miscellaneous Provisions

NEW SECTION. Sec. 601. CODIFICATION. Sections 201 through 306, 308 through 311, 402, 501, and 502 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 602. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 603. SUBJECT TO APPROPRIATION. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the House April 14, 2021.

Passed by the Senate April 9, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 319

[Engrossed Second Substitute House Bill 1089]

PEACE OFFICERS AND LAW ENFORCEMENT AGENCIES—COMPLIANCE AUDITS

AN ACT Relating to compliance audits of requirements relating to peace officers and law enforcement agencies; adding new sections to chapter 43.101 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.101 RCW to read as follows:

(1) The office of the Washington state auditor is authorized to conduct a process compliance audit procedure and review of any deadly force investigation conducted pursuant to RCW 10.114.011. At the conclusion of every deadly force investigation, the state auditor shall determine whether the actions of the

involved law enforcement agency, investigative body, and prosecutor's office are in compliance with RCW 10.114.011, chapter 43.--- RCW (the new chapter created in section 601 of Engrossed Substitute House Bill No. 1267), and all rules adopted pursuant to these provisions for the investigation and reporting of incidents involving the use of deadly force. A deadly force investigation is concluded once the involved prosecutor's office makes a charging decision and any resulting criminal case reaches disposition. Audit procedures under this section shall be conducted in cooperation with the commission.

(2) The state auditor may not conduct an audit under this section until adequately staffed with subject matter expertise regarding law enforcement and investigative audits. Until that time, the state auditor shall contract with persons with the appropriate subject matter expertise and shall issue a request for proposal for contracting with a person or entity to provide adequate subject matter expertise.

NEW SECTION. Sec. 2. A new section is added to chapter 43.101 RCW to read as follows:

Upon the request of the commission, the office of the Washington state auditor is authorized to conduct an audit procedure on any law enforcement agency to ensure the agency is in compliance with all laws, policies, and procedures governing the training and certification of peace officers employed by the agency. A copy of any completed audit must be sent to the commission, law enforcement agency, city or county council, county prosecutor, and relevant committees of the legislature.

NEW SECTION. Sec. 3. A new section is added to chapter 43.101 RCW to read as follows:

A law enforcement agency shall not pay any costs or fees for an audit conducted pursuant to section 1 or 2 of this act.

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

Passed by the House April 12, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 320

[Engrossed Substitute House Bill 1054]

PEACE OFFICERS—TACTICS AND EQUIPMENT

AN ACT Relating to establishing requirements for tactics and equipment used by peace officers; amending RCW 10.31.040; adding a new chapter to Title 10 RCW; repealing RCW 43.101.226; and providing an expiration date.

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

NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "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, and any state or local agency providing or otherwise responsible for the custody, safety, and security of adults or juveniles incarcerated in correctional, jail, or detention facilities. "Law enforcement agency" does not include the national guard or state guard under Title 38 RCW or any other division of the United States armed forces.

(2) "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, and any employee, whether part-time or full-time, of a jail, correctional, or detention facility who is responsible for the custody, safety, and security of adult or juvenile persons confined in the facility.

NEW SECTION. Sec. 2. (1) A peace officer may not use a chokehold or neck restraint on another person in the course of his or her duties as a peace officer.

(2) Any policies pertaining to the use of force adopted by law enforcement agencies must be consistent with this section.

(3) For the purposes of this section:

(a) "Chokehold" means the intentional application of direct pressure to a person's trachea or windpipe for the purpose of restricting another person's airway.

(b) "Neck restraint" refers to any vascular neck restraint or similar restraint, hold, or other tactic in which pressure is applied to the neck for the purpose of constricting blood flow.

NEW SECTION. Sec. 3. (1) The criminal justice training commission shall convene a work group to develop a model policy for the training and use of canine teams.

(2) The criminal justice training commission must ensure that the work group is equally represented between community and law enforcement stakeholders, including the following: Families who have lost loved ones as a result of violent interactions with law enforcement; an organization advocating for civil rights; a statewide organization advocating for Black Americans; a statewide organization advocating for Latinos; a statewide organization advocating for Asian Americans, Pacific Islanders, and Native Hawaiians; a federally recognized tribe located in Washington state; a community organization from eastern Washington working on police accountability; a community organization from western Washington working on police accountability; a community organization serving persons who are unhoused; the faith-based community with advocacy on police accountability; an emergency room doctor with relevant experience; Washington association of sheriffs and police chiefs; Washington state patrol; Washington fraternal order of police; Washington council of police and sheriffs; Washington state patrol troopers association; council of metropolitan police and sheriffs; teamsters local 117; and Washington state police canine association.

(3) The model policy work group shall consider:

(a) Training curriculum, including the history of race and policing;

(b) Circumstances where the deployment of a canine may not be appropriate;

(c) Circumstances where deployment of a canine on leash may be appropriate;

(d) Strategies for reducing the overall rate of canine bites;

(e) Circumstances where a canine handler should consider the use of tactics other than deploying a canine;

(f) Explicitly prohibiting the use of canines for crowd control purposes;

(g) Canine reporting protocols;

(h) Circumstances where the use of voluntary canines and canine handlers may be appropriate; and

(i) Identifying circumstances that would warrant the decertification of canine teams.

(4) The criminal justice training commission shall publish the model policy on its website by January 1, 2022.

(5) This section expires July 1, 2022.

NEW SECTION. Sec. 4. (1) A law enforcement agency may not use or authorize its peace officers or other employees to use tear gas unless necessary to alleviate a present risk of serious harm posed by a: (a) Riot; (b) barricaded subject; or (c) hostage situation.

(2) Prior to using tear gas as authorized under subsection (1) of this section, the officer or employee shall:

(a) Exhaust alternatives to the use of tear gas that are available and appropriate under the circumstances;

(b) Obtain authorization to use tear gas from a supervising officer, who must determine whether the present circumstances warrant the use of tear gas and whether available and appropriate alternatives have been exhausted as provided under this section;

(c) Announce to the subject or subjects the intent to use tear gas; and

(d) Allow sufficient time and space for the subject or subjects to comply with the officer's or employee's directives.

(3) In the case of a riot outside of a correctional, jail, or detention facility, the officer or employee may use tear gas only after: (a) Receiving authorization from the highest elected official of the jurisdiction in which the tear gas is to be used, and (b) meeting the requirements of subsection (2) of this section.

(4) For the purposes of this section:

(a) "Barricaded subject" means an individual who is the focus of a law enforcement intervention effort, has taken a position in a physical location that does not allow immediate law enforcement access, and is refusing law enforcement orders to exit.

(b) "Highest elected official" means the county executive in those charter counties with an elective office of county executive, however designated, and in the case of other counties, the chair of the county legislative authority. In the case of cities and towns, it means the mayor, regardless of whether the mayor is directly elected, selected by the council or legislative body pursuant to RCW 35.18.190 or 35A.13.030, or selected according to a process in an established city charter. In the case of actions by the Washington state patrol, it means the governor.

(c) "Hostage situation" means a scenario in which a person is being held against his or her will by an armed, potentially armed, or otherwise dangerous suspect.

(d) "Tear gas" means chloroacetophenone (CN), O-chlorobenzylidene malonitrile (CS), and any similar chemical irritant dispersed in the air for the purpose of producing temporary physical discomfort or permanent injury, except "tear gas" does not include oleoresin capsicum (OC).

NEW SECTION, Sec. 5. (1) A law enforcement agency may not acquire or use any military equipment. Any law enforcement agency in possession of military equipment as of the effective date of this section 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 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.

(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. 6. All law enforcement agencies shall adopt policies and procedures to ensure that uniformed peace officers while on duty and in the performance of their official duties are reasonably identifiable. For purposes of this section, "reasonably identifiable" means that the peace officer's uniform clearly displays the officer's name or other information that members of the public can see and the agency can use to identify the peace officer.

NEW SECTION, Sec. 7. (1) A peace officer may not engage in a vehicular pursuit, unless:

(a)(i) There is probable cause to believe that a person in the vehicle has committed or is committing a violent offense or sex offense as defined in RCW 9.94A.030, or an escape under chapter 9A.76 RCW; or

(ii) There is reasonable suspicion a person in the vehicle has committed or is committing a driving under the influence offense under RCW 46.61.502;

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

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

(d)(i) Except as provided in (d)(ii) of this subsection, the officer has received authorization to engage in the pursuit from a supervising officer and there is supervisory control of the pursuit. The officer in consultation with the supervising officer must consider alternatives to the vehicular pursuit. The supervisor must consider the justification for the vehicular pursuit and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle, and the vehicular pursuit must be terminated if any of the requirements of this subsection are not met;

(ii) For those jurisdictions with fewer than 10 commissioned officers, if a supervisor is not on duty at the time, the officer will request the on-call supervisor be notified of the pursuit according to the agency's procedures. The officer must consider alternatives to the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle. The officer must terminate the vehicular pursuit if any of the requirements of this subsection are not met.

(2) A pursuing officer shall comply with any agency procedures for designating the primary pursuit vehicle and determining the appropriate number of vehicles permitted to participate in the vehicular pursuit and comply with any agency procedures for coordinating operations with other jurisdictions, including available tribal police departments when applicable.

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

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

Sec. 8. RCW 10.31.040 and 2010 c 8 s 1030 are each amended to read as follows:

(1) To make an arrest in criminal actions, the officer may break open any outer or inner door, or windows of a dwelling house or other building, or any other ~~((enclosure [enclosure]))~~ enclosure, if, after notice of his or her office and purpose, he or she be refused admittance.

(2) An officer may not seek and a court may not issue a search or arrest warrant granting an express exception to the requirement for the officer to provide notice of his or her office and purpose when executing the warrant.

NEW SECTION. Sec. 9. RCW 43.101.226 (Vehicular pursuits—Model policy) and 2003 c 37 s 2 are each repealed.

NEW SECTION. Sec. 10. Sections 1 through 7 of this act constitute a new chapter in Title 10 RCW.

Passed by the House April 23, 2021.

Passed by the Senate April 23, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 321

[Substitute Senate Bill 5066]

PEACE OFFICERS—DUTY TO INTERVENE

AN ACT Relating to a peace officer's duty to intervene; adding a new section to chapter 10.93 RCW; and adding a new section to chapter 43.101 RCW.

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

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

(1) Any identifiable on-duty peace officer who witnesses another peace officer engaging or attempting to engage in the use of excessive force against another person shall intervene when in a position to do so to end the use of excessive force or attempted use of excessive force, or to prevent the further use of excessive force. A peace officer shall also render aid at the earliest safe opportunity in accordance with RCW 36.28A.445, to any person injured as a result of the use of force.

(2) Any identifiable on-duty peace officer who witnesses any wrongdoing committed by another peace officer, or has a good faith reasonable belief that another peace officer committed wrongdoing, shall report such wrongdoing to the witnessing officer's supervisor or other supervisory peace officer in accordance with the witnessing peace officer's employing agency's policies and procedures for reporting such acts committed by a peace officer.

(3) A member of a law enforcement agency shall not discipline or retaliate in any way against a peace officer for intervening in good faith or for reporting wrongdoing in good faith as required by this section.

(4) A law enforcement agency shall send notice to the criminal justice training commission of any disciplinary decision resulting from a peace officer's failure to intervene or failure to report as required by this section to determine whether the officer's conduct may be grounds for suspension or revocation of certification under RCW 43.101.105.

(5) For purposes of this section:

(a) "Excessive force" means force that exceeds the force permitted by law or policy of the witnessing officer's agency.

(b) "Peace officer" refers to any general authority Washington peace officer.

(c) "Wrongdoing" means conduct that is contrary to law or contrary to the policies of the witnessing officer's agency, provided that the conduct is not de minimis or technical in nature.

NEW SECTION. Sec. 2. A new section is added to chapter 43.101 RCW to read as follows:

(1) By December 1, 2021, the Washington state criminal justice training commission, in consultation with the Washington state patrol, the Washington association of sheriffs and police chiefs, and organizations representing state and local law enforcement officers, shall develop a written model policy on the duty to intervene, consistent with the provisions of section 1 of this act.

(2) By June 1, 2022, every state, county, and municipal law enforcement agency shall adopt and implement a written duty to intervene policy. The policy adopted may be the model policy developed under subsection (1) of this section. However, any policy adopted must, at a minimum, be consistent with the provisions of section 1 of this act.

(3) By January 31, 2022, the commission shall incorporate training on the duty to intervene in the basic law enforcement training curriculum. Peace officers who completed basic law enforcement training prior to January 31, 2022, must receive training on the duty to intervene by December 31, 2023.

Passed by the Senate April 20, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 322

[Substitute House Bill 1088]

IMPEACHMENT DISCLOSURES

AN ACT Relating to potential impeachment disclosures; and adding a new section to chapter 10.93 RCW.

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

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

(1)(a) Each county prosecutor shall develop and adopt a written protocol addressing potential impeachment disclosures pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), and subsequent case law. The protocol must provide guidance for: (i) The types of conduct that should be recognized as potentially exculpatory or as creating potential impeachment material; (ii) how information about an officer or officer conduct should be shared and maintained; and (iii) under what circumstances an officer's information or name may be removed from any list of potential impeachment disclosures.

(b) The protocol shall be developed by the prosecuting attorney with consultation of agencies representing law enforcement officers and local departments that will be impacted by the protocol.

(c) Subject to amounts appropriated for this purpose, no later than June 30, 2022, the criminal justice training commission shall provide, or contract with an organization that serves prosecuting attorneys in Washington to provide, online training for potential impeachment disclosures.

(d) Local protocols under this section shall be adopted and in place no later than July 1, 2022. Local protocols must be reviewed every two years to determine whether modifications are needed.

(2)(a) A law enforcement agency shall report the following information to the prosecuting authority of any jurisdiction in which the officer may testify as a witness:

(i) Any act by the officer that may be potentially exculpatory to a criminal defendant; and

(ii) Misconduct that the officer has engaged in that affects his or her credibility.

(b) The law enforcement agency shall report the information within 10 days of the discovery of the act under (a)(i) of this subsection or the misconduct under (a)(ii) of this subsection.

(3)(a) Prior to hiring any peace officer with previous law enforcement experience, a law enforcement agency must inquire as to whether the officer has ever been subject to potential impeachment disclosure. The agency shall verify the officer's response with the prosecuting authorities in the jurisdictions of the officer's previous employment. Prosecuting authorities shall respond within 10 days of receiving a request from a law enforcement agency for verification. The fact that an officer has been subject to impeachment disclosure is not, in and of itself, a bar to employment. Any prehiring process or hiring decision by an agency does not constitute a personnel action under RCW 10.93.150.

(b) Within 10 days of hiring an officer with a prior potential impeachment disclosure, the law enforcement agency shall forward that information to the prosecuting authority of any jurisdiction in which the officer may testify as a witness.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for sharing impeachment information about a peace officer with the peace officer's employer, potential employer, or prosecuting authority unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith.

Passed by the House April 13, 2021.

Passed by the Senate March 9, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 323

[Engrossed Second Substitute Senate Bill 5051]

PEACE OFFICERS AND CORRECTIONS OFFICERS—STATE OVERSIGHT AND ACCOUNTABILITY

AN ACT Relating to state oversight and accountability of peace officers and corrections officers; amending RCW 43.101.010, 43.101.020, 43.101.030, 43.101.040, 43.101.060, 43.101.080, 43.101.085, 43.101.095, 43.101.105, 43.101.115, 43.101.135, 43.101.145, 43.101.155, 43.101.157, 43.101.230, 43.101.390, 43.101.420, 34.12.035, 40.14.070, 43.101.380, 43.101.400, 41.56.905,

49.44.200, 41.06.040, and 43.101.200; adding a new section to chapter 43.101 RCW; adding a new section to chapter 41.06 RCW; adding a new section to chapter 10.93 RCW; creating new sections; repealing RCW 43.101.096, 43.101.106, 43.101.116, 43.101.136, 43.101.146, 43.101.156, and 43.101.180; and prescribing penalties.

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

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

When used in this chapter:

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

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

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

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

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

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

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

(7) ~~((A peace officer or corrections officer is "convicted"))~~ "Convicted" means at the time a plea of guilty, nolo contendere, or deferred sentence has been accepted, or a verdict of guilty or finding of guilt has been filed, notwithstanding the pendency of any future proceedings, including but not limited to sentencing, posttrial or postfact-finding motions and appeals.

"Conviction" includes ~~((a deferral of sentence))~~ all instances in which a plea of guilty or nolo contendere is the basis for conviction, all proceedings in which there is a case disposition agreement, and ((also includes the)) any equivalent disposition by a court in a jurisdiction other than the state of Washington.

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

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

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

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

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

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

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

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

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

(a) Specially commissioned Washington peace officers as defined in RCW 10.93.020;

(b) Limited authority Washington peace officers as defined in RCW 10.93.020;

(c) Persons employed as security by public institutions of higher education as defined in RCW 28B.10.016; and

(d) Persons employed for the purpose of providing security in the K-12 Washington state public school system as defined in RCW 28A.150.010 and who are authorized to use force in fulfilling their responsibilities.

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

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

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

(2) The purpose of ~~((such))~~ the commission shall be to ~~((provide programs and standards for the training of criminal justice personnel))~~ establish and administer standards and processes for certification, suspension, and decertification of peace officers and corrections officers. The commission shall provide programs and training that enhance the integrity, effectiveness, and professionalism of peace officers and corrections officers while helping to ensure that law enforcement and correctional services are delivered to the people of Washington in a manner that fully complies with the Constitutions and laws of this state and United States. In carrying out its duties, the commission shall strive to promote public trust and confidence in every aspect of the criminal justice system.

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

The commission shall consist of ~~((sixteen))~~ 21 members~~((, who shall be selected))~~ as follows:

(1) The governor shall appoint ~~((two))~~;

(a) One incumbent sheriff((s)) and ~~((two))~~ one incumbent chief((s)) of police.

~~((2) The governor shall appoint one officer))~~ The governor shall additionally appoint an alternate incumbent chief of police who may perform commission duties in place of the appointed incumbent chief if that person is unavailable;

(b) Two officers at or below the level of first line supervisor who:

(i) Have at least ten years' experience as law enforcement officers;

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

(3) The governor shall appoint one)) agencies that each have at least 15 officers and are different than the agencies with which the members in (a) of this subsection are affiliated; and

(iii) Are affiliated with different labor organizations;

(c) One tribal police officer at or below the level of first line supervisor who has at least 10 years' experience as a law enforcement officer;

(d) One person employed ~~((in a county correctional system and one person employed in the state correctional system.~~

(4) The governor shall appoint one)) in a state or county corrections agency;

(e) One incumbent county prosecuting attorney or municipal attorney~~((~~

(5) The governor shall appoint one)) and one public defender;

(f) One licensed attorney with background in investigating, advocating, teaching, training, or presiding over matters related to enhancing law enforcement practices and accountability, who has not been employed in law enforcement;

(g) One elected official of a local government~~((~~

(6) The governor shall appoint two private citizens)) who is not a sheriff or police chief and has not been employed in the last 10 years as a peace officer or prosecutor in any jurisdiction;

(h) One person with civilian oversight or auditing experience over law enforcement agencies;

(i) Seven community members who are not employed in law enforcement, ~~((one from))~~ including at least two who reside east of the crest of the Cascade mountains and ~~((one from west of the crest of the Cascade mountains. At))~~ at least ~~((one of the private citizens must be))~~ three who are from a historically underrepresented community or communities~~((~~

(7) The governor shall appoint one)); and

(j) One tribal chair, board member, councilmember, or ~~((designee))~~ enrolled member from a federally recognized tribe with an active certification agreement under RCW 43.101.157~~((~~

(8) The three remaining members shall be:

~~((a))~~ who is not a sheriff and has not been employed in the last 10 years as a peace officer or prosecutor in any jurisdiction;

(2) The attorney general or the attorney general's designee;

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

~~((e))~~ (3) The chief of the state patrol or the chief's designee.

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

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

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

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

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

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

The commission shall have all of the following powers:

- (1) (~~To meet at such times and places as it may deem proper;~~
- (2) To adopt any rules and regulations as it may deem necessary;
- (3) To contract for services as it deems necessary in order to carry out its duties and responsibilities;
- (4) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;
- (5) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it;
- (6) To select and employ an executive director, and to empower him or her to perform such duties and responsibilities as it may deem necessary;
- (7) ~~To~~) Conduct training, including the basic law enforcement academy and in-service training, and assume legal, fiscal, and program responsibility for all training conducted by the commission;

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

(3) Grant, deny, suspend, or revoke certification of tribal police officers whose tribal governments have agreed to participate in the tribal police officer certification process;

(4) Related to its duties under subsections (2) and (3) of this section, provide for the comprehensive and timely investigation of complaints where necessary to ensure adherence to law and agency policy, strengthen the integrity and accountability of peace officers and corrections officers, and maintain public trust and confidence in the criminal justice system in this state;

(5) Establish, by rule and regulation, curricula and standards for the training of criminal justice personnel where such curricula and standards are not prescribed by statute;

~~((9) To own)~~ (6) Own, establish, and operate, or ~~((to))~~ contract with other qualified institutions or organizations for the operation of, training and education programs for criminal justice personnel ~~((and to purchase, lease, or otherwise acquire, subject to the approval of the department of enterprise services, a training facility or facilities necessary to the conducting of such programs;~~

~~(10) To establish, by rule and regulation, minimum curriculum standards for all training programs conducted for employed criminal justice personnel;~~

~~(11) To review));~~

(7) Review and approve or reject standards for instructors of training programs for criminal justice personnel, and ~~((to))~~ employ personnel from law enforcement agencies on a temporary basis as instructors without any loss of employee benefits to those instructors from those agencies;

~~((12) To direct)~~ (8) Direct the development of alternative, innovative, and interdisciplinary training techniques;

~~((13) To review)~~ (9) Review and approve or reject training programs conducted for criminal justice personnel and rules establishing and prescribing minimum training and education standards ~~((recommended by the training standards and education boards)), including continuing education;~~

~~((14) To allocate)~~ (10) Allocate financial resources among training and education programs conducted by the commission;

~~((15) To)~~ (11) Purchase, lease, or otherwise acquire, subject to the approval of the department of enterprise services, a training facility or facilities and allocate training facility space among training and education programs conducted by the commission;

~~((16) To issue)~~ (12) Issue diplomas certifying satisfactory completion of any training or education program conducted or approved by the commission to any person so completing such a program;

~~((17) To provide)~~ (13) Provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission;

~~((18) To establish)~~ (14) Establish rules and regulations ~~((recommended by the training standards and education boards))~~ prescribing minimum standards relating to physical, mental, and moral fitness which shall govern the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provision;

~~((19) To require)~~ (15) Require county, city, port, or state law enforcement and corrections agencies that make a conditional offer of employment to an applicant as a fully commissioned peace officer, a reserve officer, or a corrections officer to administer a background investigation ~~((including a check of criminal history, verification of immigrant or citizenship status as either a citizen of the United States of America or a lawful permanent resident, a~~

~~psychological examination, and a polygraph test or similar assessment to each applicant, the results of which shall be used by the employer to determine the applicant's suitability for employment as a fully commissioned peace officer, a reserve officer, or a corrections officer. The background investigation, psychological examination, and the polygraph examination shall be administered in accordance with the requirements of RCW 43.101.095(2) for peace officers, and RCW 43.101.096 for corrections officers. The employing county, city, or state law enforcement agency may require that each peace officer, reserve officer, or corrections officer who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or four hundred dollars, whichever is less. County, city, and state law enforcement agencies may establish a payment plan if they determine that the peace officer, reserve officer, or corrections officer does not readily have the means to pay for his or her portion of the testing fee. This subsection does not apply to corrections officers employed by state agencies;~~

~~((20) To promote)) in accordance with the requirements of RCW 43.101.095 to determine the applicant's suitability for employment as a fully commissioned peace officer, reserve officer, or corrections officer;~~

~~(16) Appoint members of a hearings panel as provided under RCW 43.101.380;~~

~~(17) Issue public recommendations to the governing body of a law enforcement agency regarding the agency's command decisions, inadequacy of policy or training, investigations or disciplinary decisions regarding misconduct, potential systemic violations of law or policy, unconstitutional policing, or other matters;~~

~~(18) Promote positive relationships between law enforcement and the ((citizens)) residents of the state of Washington ((by allowing)) through commissioners and staff ((to participate)) participation in the "chief for a day program." The executive director shall designate staff who may participate. In furtherance of this purpose, the commission may accept grants of funds and gifts and may use its public facilities for such purpose. At all times, the participation of commissioners and staff shall comply with chapter 42.52 RCW and chapter 292-110 WAC((- AH));~~

~~(19) Adopt, amend, repeal, and administer rules and regulations ((adopted by the commission shall be adopted and administered)) pursuant to the administrative procedure act, chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW.~~

Sec. 7. RCW 43.101.085 and 2020 c 119 s 1 are each amended to read as follows:

In addition to its other powers granted under this chapter, the commission has authority and power to:

~~(1) ((Adopt, amend, or repeal rules as necessary to carry out this chapter;~~
~~(2)) Contract for services as it deems necessary in order to carry out its duties and responsibilities;~~

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

(3) Select and employ an executive director, and empower the director to perform such duties and responsibilities as the commission may deem necessary;

(4) Issue subpoenas and statements of charges, and administer oaths in connection with investigations, hearings, or other proceedings held under this chapter, or designate individuals to do so;

~~((3))~~ (5) Employ such staff as necessary for the implementation and enforcement of this chapter;

(6) Take or cause to be taken depositions and other discovery procedures as needed in investigations, hearings, and other proceedings held under this chapter;

~~((4) Appoint members of a hearings board as provided under RCW 43.101.380;~~

~~(5))~~ (7) Enter into contracts for professional services determined by the commission to be necessary for adequate enforcement of this chapter;

~~((6) Grant, deny, or revoke certification of peace officers and corrections officers under the provisions of this chapter;~~

~~(7) Designate individuals authorized to sign subpoenas and statements of charges under the provisions of this chapter;~~

~~(8) Employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter; and~~

~~(9) Grant, deny, or revoke certification of tribal police officers whose tribal governments have agreed to participate in the tribal police officer certification process)) and~~

(8) Exercise lawful actions necessary to enable the commission to fully and adequately perform its duties and to exercise the lawful powers granted to the commission.

Sec. 8. RCW 43.101.095 and 2018 c 32 s 5 are each amended to read as follows:

(1) As a condition of ((continuing)) employment ((as peace officers)), all Washington peace officers((: (a) Shall timely obtain certification as peace officers, or timely obtain certification or exemption therefrom, by meeting all requirements of RCW 43.101.200, as that section is administered under the rules of the commission, as well by meeting any additional requirements under this chapter; and (b) shall maintain the basic certification as peace officers under this chapter)) and corrections officers are required to obtain certification as a peace officer or corrections officer or exemption therefrom and maintain certification as required by this chapter and the rules of the commission.

(2)(a) ((As a condition of continuing employment for any)) Any applicant who has been offered a conditional offer of employment as a ((fully commissioned)) peace officer or ((a)) reserve officer ((after July 24, 2005)) or offered a conditional offer of employment as a corrections officer after July 1, 2021, including any person whose certification has lapsed as a result of a break of more than ((twenty-four)) 24 consecutive months in the officer's service ((as a fully commissioned peace officer or reserve officer, the applicant shall)) for a reason other than being recalled to military service, must submit to a background investigation ((including a)) to determine the applicant's suitability for employment. Employing agencies may only make a conditional offer of employment pending completion of the background check and shall verify in

writing to the commission that they have complied with all background check requirements prior to making any nonconditional offer of employment.

(b) The background check must include:

(i) A check of criminal history, ~~((verification))~~ any national decertification index, commission records, and all disciplinary records by any previous law enforcement or correctional employer, including complaints or investigations of misconduct and the reason for separation from employment. Law enforcement or correctional agencies that previously employed the applicant shall disclose employment information within 30 days of receiving a written request from the employing agency conducting the background investigation, including the reason for the officer's separation from the agency. Complaints or investigations of misconduct must be disclosed regardless of the result of the investigation or whether the complaint was unfounded;

(ii) Inquiry to the local prosecuting authority in any jurisdiction in which the applicant has served as to whether the applicant is on any potential impeachment disclosure list;

(iii) Inquiry into whether the applicant has any past or present affiliations with extremist organizations, as defined by the commission;

(iv) A review of the applicant's social media accounts;

(v) Verification of immigrant or citizenship status as either a citizen of the United States of America or a lawful permanent resident~~((s-a))~~;

(vi) A psychological examination~~((s-and-a))~~ administered by a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW, in compliance with standards established in rules of the commission;

(vii) A polygraph or similar assessment ~~((as))~~ administered by ~~((the county, city, or state law enforcement agency, the results of which shall be used to determine the applicant's suitability for employment as a fully commissioned peace officer or a reserve officer.~~

~~(i) The background investigation including a check of criminal history shall be administered by the county, city, or state law enforcement agency that made the conditional offer of employment in compliance with standards established in the rules of the commission.~~

~~(ii) The psychological examination shall be administered by a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW, in compliance with standards established in rules of the commission.~~

~~(iii) The polygraph test shall be administered by an experienced polygrapher who is a graduate of a polygraph school accredited by the American polygraph association and in compliance with standards established in rules of the commission.~~

~~(iv)) an experienced professional with appropriate training and in compliance with standards established in rules of the commission; and~~

~~(viii) ~~((Any other))~~ Except as otherwise provided in this section, any test or assessment to be administered as part of the background investigation shall be administered in compliance with standards established in rules of the commission.~~

~~((b)) (c) The commission may establish standards for the background check requirements in this section and any other preemployment background~~

check requirement that may be imposed by an employing agency or the commission.

~~(d)~~ The employing ~~((county, city, or state))~~ law enforcement agency may require that each ~~((peace officer or reserve officer))~~ person who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or ~~((four hundred dollars))~~ \$400, whichever is less. ~~((County, city, and state law enforcement))~~ Employing agencies may establish a payment plan if they determine that the ~~((peace officer or reserve officer))~~ person does not readily have the means to pay ~~((for his or her portion of))~~ the testing fee.

~~(3)~~ ~~((The commission shall certify peace officers who have satisfied, or have been exempted by statute or by rule from, the basic training requirements of RCW 43.101.200 on or before January 1, 2002. Thereafter, the commission may revoke certification pursuant to this chapter.~~

~~(4))~~ The commission shall allow a peace officer or corrections officer to retain status as a certified peace officer or corrections officer as long as the officer: (a) Timely meets the basic ~~((law enforcement))~~ training requirements, or is exempted therefrom, in whole or in part, under RCW 43.101.200 or under rule of the commission; (b) timely meets or is exempted from any other requirements under this chapter as administered under the rules adopted by the commission; (c) is not denied certification by the commission under this chapter; and (d) has not had certification suspended or revoked by the commission.

~~((5))~~ ~~(4)~~ As a ~~((prerequisite to))~~ condition of certification, ~~((as well as a prerequisite to pursuit of a hearing under RCW 43.101.155,))~~ a peace officer or corrections officer must, on a form devised or adopted by the commission, authorize the release to the employing agency and commission of ~~((his or her))~~ the officer's personnel files, including disciplinary, termination ~~((papers,))~~ civil or criminal investigation ~~((files,))~~ or other ~~((files, papers,))~~ records or information that are directly related to a certification matter or decertification matter before the commission. The peace officer or corrections officer must also consent to and facilitate a review of the officer's social media accounts, however, consistent with RCW 49.44.200, the officer is not required to provide login information. The release of information may not be delayed, limited, or precluded by any agreement or contract between the officer, or the officer's union, and the entity responsible for the records or information.

~~((6))~~ ~~(5)~~ The employing agency and commission ~~((is))~~ are authorized to receive criminal history record information that includes nonconviction data for any purpose associated with employment ~~((by the commission))~~ or ~~((peace officer))~~ certification under this chapter. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited.

~~((7))~~ ~~(6)~~ For a national criminal history records check, the commission shall require fingerprints be submitted and searched through the Washington state patrol identification and criminal history section. The Washington state patrol shall forward the fingerprints to the federal bureau of investigation.

~~(7)~~ Prior to certification, the employing agency shall certify to the commission that the agency has completed the background check, no information has been found that would disqualify the applicant from certification, and the applicant is suitable for employment as a peace officer or corrections officer.

Sec. 9. RCW 43.101.105 and 2011 c 234 s 3 are each amended to read as follows:

(1) ~~(Upon)~~ To help prevent misconduct, enhance peace officer and corrections officer accountability through the imposition of sanctions commensurate to the wrongdoing when misconduct occurs, and enhance public trust and confidence in the criminal justice system, upon request by ((a peace)) an officer's employer or on its own initiative, the commission may deny, suspend, or revoke certification of ((any peace)), or require remedial training for, an officer((, after)) as provided in this section. The commission shall provide the officer with written notice and a hearing, if a hearing is timely requested by the ((peace)) officer under RCW 43.101.155((, based upon a finding of one or more of the following conditions:

~~(a) The peace officer has failed to timely meet all requirements for obtaining a certificate of basic law enforcement training, a certificate of basic law enforcement training equivalency, or a certificate of exemption from the training;~~

~~(b) The peace officer has knowingly falsified or omitted material information on an application for training or certification to the commission;~~

~~(c) The peace officer has been convicted at any time of a felony offense under the laws of this state or has been convicted of a federal or out-of-state offense comparable to a felony under the laws of this state; except that if a certified peace officer was convicted of a felony before being employed as a peace officer, and the circumstances of the prior felony conviction were fully disclosed to his or her employer before being hired, the commission may revoke certification only with the agreement of the employing law enforcement agency;~~

~~(d) The peace officer has been discharged for disqualifying misconduct, the discharge is final, and some or all of the acts or omissions forming the basis for the discharge proceedings occurred on or after January 1, 2002;~~

~~(e) The peace officer's certificate was previously issued by administrative error on the part of the commission; or~~

~~(f) The peace officer has interfered with an investigation or action for denial or revocation of certificate by: (i) Knowingly making a materially false statement to the commission; or (ii) in any matter under investigation by or otherwise before the commission, tampering with evidence or tampering with or intimidating any witness)). Notice and hearing are not required when a peace officer voluntarily surrenders certification.~~

(2) ~~(After July 24, 2005, the))~~ The commission must deny or revoke the certification of an applicant or officer if the applicant or officer:

(a)(i) Has been convicted of:

(A) A felony offense;

(B) A gross misdemeanor domestic violence offense;

(C) An offense with sexual motivation as defined in RCW 9.94A.030;

(D) An offense under chapter 9A.44 RCW; or

(E) A federal or out-of-state offense comparable to an offense listed in (a)(i)(A) through (D) of this subsection (2); and

(ii)(A) The offense was not disclosed at the time of application for initial certification; or

(B) The officer was a certified peace officer or corrections officer at the time of the offense; and

(iii) The offense is not one for which the officer was granted a full and unconditional pardon; and

(iv) The offense was not adjudicated as a juvenile and the record sealed;

(b) Has been terminated by the employing agency or otherwise separated from the employing agency after engaging in, or was found by a court to have engaged in, the use of force which resulted in death or serious injury and the use of force violated the law;

(c) Has been terminated by the employing agency or otherwise separated from the employing agency after witnessing, or found by a court to have witnessed, another officer's use of excessive force and;

(i) Was in a position to intervene to end the excessive use of force and failed to do so; or

(ii) Failed to report the use of excessive force in accordance with agency policy or law;

(d) Has been terminated by the employing agency or otherwise separated from the employing agency after knowingly making, or found by a court to have knowingly made, misleading, deceptive, untrue, or fraudulent representations in the practice of being a peace officer or corrections officer including, but not limited to, committing perjury, filing false reports, hiding evidence, or failing to report exonerating information. This subsection (2)(d) does not apply to representations made in the course and for the purposes of an undercover investigation or other lawful law enforcement purpose; or

(e) Is prohibited from possessing weapons by state or federal law or by a permanent court order entered after a hearing.

(3) The commission may deny, suspend, or revoke certification or require remedial training of an applicant or officer if the applicant or officer:

(a) Failed to timely meet all requirements for obtaining a certificate of basic law enforcement or corrections training, a certificate of basic law enforcement or corrections training equivalency, or a certificate of exemption from the training;

(b) Was previously issued a certificate through administrative error on the part of the commission;

(c) Knowingly falsified or omitted material information on an application to the employer or for training or certification to the commission;

(d) Interfered with an investigation or action for denial or revocation of certification by:

(i) Knowingly making a materially false statement to the commission;

(ii) Failing to timely and accurately report information to the commission as required by law or policy; or

(iii) In any matter under review or investigation by or otherwise before the commission, tampering with evidence or tampering with or intimidating any witness;

(e) Engaged in a use of force that could reasonably be expected to cause physical injury, and the use of force violated the law or policy of the officer's employer;

(f) Committed sexual harassment as defined by state law;

(g) Through fraud or misrepresentation, has used the position of peace officer or corrections officer for personal gain;

(h) Engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or

discrimination against a person on the basis of race, religion, creed, color, national origin, immigration status, disability, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status;

(i) Has affiliation with one or more extremist organizations;

(j) Whether occurring on or off duty, has:

(i) Been found to have committed a felony, without regard to conviction;

(ii) Engaged in a pattern of acts showing an intentional or reckless disregard for the rights of others, including but not limited to violation of an individual's constitutional rights under the state or federal constitution or a violation of RCW 10.93.160;

(iii) Engaged in unsafe practices involving firearms, weapons, or vehicles which indicate either a willful or wanton disregard for the safety of persons or property; or

(iv) Engaged in any conduct or pattern of conduct that: Fails to meet the ethical and professional standards required of a peace officer or corrections officer; disrupts, diminishes, or otherwise jeopardizes public trust or confidence in the law enforcement profession and correctional system; or demonstrates an inability or unwillingness to uphold the officer's sworn oath to enforce the constitution and laws of the United States and the state of Washington;

(k) Has been suspended or discharged, has resigned or retired in lieu of discharge, or has separated from the agency after the alleged misconduct occurred, for any conduct listed in this section; or

(l) Has voluntarily surrendered the person's certification as a peace officer or corrections officer.

(4) In addition to the penalties set forth in subsection (3) of this section, the commission may require mandatory retraining or placement on probation for up to two years, or both. In determining the appropriate penalty or sanction, the commission shall consider: The findings and conclusions, and the basis for the findings and conclusions, of any due process hearing or disciplinary appeals hearing following an investigation by a law enforcement agency regarding the alleged misconduct, if such hearing has occurred prior to the commission's action; any sanctions or training ordered by the employing agency regarding the alleged misconduct; and whether the employing agency bears any responsibility for the situation.

(5) The commission shall deny certification to any applicant who (~~has~~) lost (~~his or her~~) certification as a result of a break in service of more than (~~twenty-four~~) 24 consecutive months if that applicant failed to comply with the requirements set forth in RCW 43.101.080(~~(+9)~~) (15) and 43.101.095(2).

(6) The fact that the commission has suspended an officer's certification is not, in and of itself, a bar to the employing agency's maintenance of the officer's health and retirement benefits.

(7) Any suspension or period of probation imposed by the commission shall run concurrently to any leave or discipline imposed by the employing agency for the same incident.

(8) A law enforcement agency may not terminate a peace officer based solely on imposition of suspension or probation by the commission. This subsection does not prohibit a law enforcement agency from terminating a peace

officer based on the underlying acts or omissions for which the commission took such action.

(9) Any of the misconduct listed in subsections (2) and (3) of this section is grounds for denial, suspension, or revocation of certification of a reserve officer to the same extent as applied to a peace officer, if the reserve officer is certified pursuant to RCW 43.101.095.

Sec. 10. RCW 43.101.115 and 2001 c 167 s 4 are each amended to read as follows:

(1) A person denied a certification based upon dismissal or withdrawal from a basic law enforcement academy (~~((for any reason not also involving discharge for disqualifying misconduct))~~) or basic corrections academy under RCW 43.101.105(3)(a) is eligible for readmission and certification upon meeting standards established in rules of the commission, which rules may provide for probationary terms on readmission.

(2) A person whose certification is denied or revoked based upon prior administrative error of issuance, failure to cooperate, or interference with an investigation is eligible for certification upon meeting standards established in rules of the commission, (~~((rules which may))~~) which rules shall provide for a probationary period of certification in the event of reinstatement of eligibility.

(3) A person whose certification is mandatorily denied or revoked (~~((based upon a felony criminal conviction))~~) pursuant to RCW 43.101.105(2) is not eligible for certification at any time.

(4) A (~~((peace officer))~~) person whose certification is denied or revoked (~~((based upon discharge for disqualifying misconduct, but not also based upon a felony criminal conviction;))~~) for reasons other than provided in subsections (1) through (3) of this section may, five years after the revocation or denial, petition the commission for reinstatement of the certificate or for eligibility for reinstatement. The commission (~~((shall))~~) may hold a hearing on the petition to consider reinstatement, and the commission may allow reinstatement based upon standards established in rules of the commission. If the certificate is reinstated or eligibility for certification is determined, the commission (~~((may))~~) shall establish a probationary period of certification.

(5) A (~~((peace officer))~~) person whose certification is revoked based solely upon a criminal conviction may petition the commission for reinstatement immediately upon a final judicial reversal of the conviction. The commission shall hold a hearing on request to consider reinstatement, and the commission may allow reinstatement based on standards established in rules of the commission. If the certificate is reinstated or if eligibility for certification is determined, the commission (~~((may))~~) shall establish a probationary period of certification.

(6) The commission's rules and decisions regarding reinstatement shall align with its responsibilities to enhance public trust and confidence in the law enforcement profession and correctional system.

Sec. 11. RCW 43.101.135 and 2001 c 167 s 6 are each amended to read as follows:

(1)(a) Upon ((termination)) separation of a peace officer or corrections officer from an employing agency for any reason, including termination, resignation, or retirement, the agency ((of termination)) shall((- within fifteen

days of the termination,)) notify the commission within 15 days of the separation date on a personnel action report form provided by the commission. ((The agency of termination shall, upon))

(b) If the employer accepts an officer's resignation or retirement in lieu of termination, the employing agency shall report the reasons and rationale in the information provided to the commission, including the findings from any internal or external investigations into alleged misconduct.

(2) In addition to those circumstances under subsection (1) of this section and whether or not disciplinary proceedings have been concluded, the employing agency shall:

(a) Notify the commission within 15 days of learning of the occurrence of any death or serious injury caused by the use of force by an officer or any time an officer has been charged with a crime. Employing agencies must have a policy requiring officers to report any pending criminal charges and any conviction, plea, or other case disposition immediately to their agency; and

(b) Notify the commission within 15 days of an initial disciplinary decision by an employing agency for alleged behavior or conduct by an officer that is noncriminal and may result in revocation of certification pursuant to RCW 43.101.105.

(3) To better enable the commission to act swiftly and comprehensively when misconduct has occurred that may undermine public trust and confidence in law enforcement or the correctional system, if the totality of the circumstances support a conclusion that the officer resigned or retired in anticipation of discipline, whether or not the misconduct was discovered at the time, and when such discipline, if carried forward, would more likely than not have led to discharge, or if the officer was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer's suspension or discharge, the employing agency shall conduct and complete the investigation and provide all relevant information to the commission as if the officer were still employed by the agency.

(4) Upon request of the commission, the employing agency shall provide such additional documentation or information as the commission deems necessary to determine whether the ((termination)) separation or event provides grounds for suspension or revocation ((under RCW 43.101.105)).

(5) At its discretion, the commission may:

(a) Initiate decertification proceedings upon conclusion of any investigation or disciplinary proceedings initiated by the employing agency;

(b) Separately pursue action against the officer's certification under RCW 43.101.105; or

(c) Wait to proceed until any investigation, disciplinary proceedings, or appeals through the employing agency are final before taking action. Where a decertification decision requires a finding that the officer's conduct violated policy and the employing agency has begun its investigation into the underlying event, the commission shall await notification of a finding by the employing agency before beginning the decertification process.

(6) No action or failure to act by an employing agency or decision resulting from an appeal of that action precludes action by the commission to suspend or revoke an officer's certification.

(7) An employing agency may not enter into any agreement or contract with an officer, or union:

(a) Not to report conduct, delay reporting, or preclude disclosure of any relevant information, including a promise not to check the box on a commission notice that indicates the officer may have committed misconduct, in exchange for allowing an officer to resign or retire or for any other reason; or

(b) That allows the agency to destroy or remove any personnel record while the officer is employed and for 10 years thereafter. Such records must include all misconduct and equal employment opportunity complaints, progressive discipline imposed including written reprimands, supervisor coaching, suspensions, involuntary transfers, investigatory files, and other disciplinary appeals and litigation records.

(8) The commission shall maintain ~~((these notices))~~ all information provided pursuant to this section in a permanent file ~~((, subject to RCW 43.101.400)).~~

(9) In addition to disciplinary action authorized in RCW 43.101.105, the commission may impose a civil penalty not to exceed \$10,000 for the failure by an officer or an employing agency to timely and accurately report information pursuant to this section.

Sec. 12. RCW 43.101.145 and 2001 c 167 s 8 are each amended to read as follows:

~~((A law enforcement officer or duly authorized representative of a law enforcement agency))~~ (1) Any individual may submit a written complaint to the commission ~~((charging))~~ stating that ~~((a peace))~~ an officer's certificate should be denied, suspended, or revoked, and specifying the grounds for the ~~((charge))~~ complaint. Filing a complaint does not make a complainant a party to the commission's action.

(2) The commission has sole discretion whether to investigate a complaint, and the commission has sole discretion whether to investigate matters relating to certification, denial of certification, or revocation of certification on any other basis, without restriction as to the source or the existence of a complaint. All complaints must be resolved with a written determination, regardless of the decision to investigate.

(3) The commission may initiate an investigation in any instance where there is a pattern of complaints or other actions that may not have resulted in a formal adjudication of wrongdoing, but when considered together demonstrate conduct that would constitute a violation of RCW 43.101.105 (2) or (3). The commission must consider the agency's policies and procedures and the officer's job duties and assignment in determining what constitutes a pattern.

(4) A person who files a complaint in good faith under this section is immune from suit or any civil action related to the filing or the contents of the complaint.

Sec. 13. RCW 43.101.155 and 2001 c 167 s 9 are each amended to read as follows:

(1) If the commission determines, upon investigation, that there is ~~((probable))~~ cause to believe that a peace officer's or corrections officer's certification should be denied, suspended, or revoked under RCW 43.101.105, the commission must prepare and serve upon the officer a statement of charges.

Service on the officer must be by mail or by personal service on the officer unless the officer has consented to service in some other manner, including electronic notification. Notice of the charges must also be mailed to or otherwise served upon the officer's agency of ~~((termination))~~ separation and any current ~~((law enforcement))~~ agency employer. The statement of charges must be accompanied by a notice that to receive a hearing on the denial or revocation, the officer must, within ~~((sixty))~~ 60 days of ~~((communication of))~~ the statement of charges, request a hearing before the ~~((board))~~ panel appointed under RCW 43.101.380. Failure of the officer to request a hearing within the ~~((sixty-day))~~ 60-day period constitutes a default, whereupon the commission may enter an order under RCW 34.05.440.

(2) If a hearing is requested, the officer is required to provide an email address that constitutes the officer's legal address for purposes of any subsequent communication from the commission. Unless otherwise agreed to by the mutual agreement of the parties or for good cause, within two weeks of receipt of the officer's request for a hearing, the commission shall set a date ((of)) for the hearing, which must be ((scheduled not earlier than ninety days nor later than one hundred eighty days after communication of the statement of charges to the officer; the one hundred eighty day period may be extended on mutual agreement of the parties or for good cause)) held within 90 days thereafter. ((The)) On the date the hearing is set, the commission shall ((give)) transmit electronic and written notice of the hearing ((at least twenty days prior to the hearing)) to the officer, and provide public notice on the commission website, specifying the time, date, and place of hearing.

Sec. 14. RCW 43.101.157 and 2006 c 22 s 2 are each amended to read as follows:

(1) Tribal governments may voluntarily request certification for their police officers. Tribal governments requesting certification for their police officers must enter into a written agreement with the commission. The agreement must require the tribal law enforcement agency and its officers to comply with all of the requirements for granting, denying, and revoking certification as those requirements are applied to peace officers certified under this chapter and the rules of the commission. To ensure clarity regarding the requirements with which the tribal government and its police officers must comply should the tribal government request certification, a tribal government may first request consultation with the commission.

(2) Officers making application for certification as tribal police officers shall meet the requirements of this chapter and the rules of the commission as those requirements are applied to certification of peace officers. Application for certification as a tribal police officer shall be accepted and processed in the same manner as those for certification of peace officers.

~~((3) For purposes of certification, "tribal police officer" means any person employed and commissioned by a tribal government to enforce the criminal laws of that government.))~~

Sec. 15. RCW 43.101.230 and 1981 c 134 s 1 are each amended to read as follows:

~~((Indian tribe))~~ Tribal police officers and employees who are engaged in law enforcement activities and who do not qualify as "criminal justice personnel" or

"law enforcement personnel" under RCW 43.101.010(~~(; as now law or hereafter amended, may)~~) shall be provided training under this chapter if: (a) The tribe is recognized by the federal government, and (b) the tribe pays to the commission the full cost of providing such training. The commission shall place all money received under this section into the criminal justice training account.

Sec. 16. RCW 43.101.390 and 2001 c 167 s 11 are each amended to read as follows:

(1) The commission(~~(; its boards,))~~ and individuals acting on behalf of the commission (~~(and its boards))~~ are immune from suit in any civil or criminal action contesting or based upon proceedings or other official acts performed in the course of their duties in the administration and enforcement of this chapter.

(2) Without limiting the generality of the foregoing, the commission and individuals acting on behalf of the commission are immune from suit in any civil action based on the certification, denial of certification, suspension, or other action regarding decertification of peace officers, reserve officers, or corrections officers.

Sec. 17. RCW 43.101.420 and 2009 c 19 s 1 are each amended to read as follows:

(1) The commission shall offer a training session on personal crisis recognition and crisis intervention services to criminal justice, (~~(correctional personnel))~~ corrections, and other public safety employees. The training shall be implemented by the commission in consultation with appropriate public and private organizations that have expertise in crisis referral services and in the underlying conditions leading to the need for crisis referral.

(2) The training shall consist of a minimum of one hour of classroom or internet instruction, and shall include instruction on the following subjects:

(a) The description and underlying causes of problems that may have an impact on the personal and professional lives of public safety employees, including mental health issues, chemical dependency, domestic violence, financial problems, and other personal crises;

(b) Techniques by which public safety employees may recognize the conditions listed in (a) of this subsection and understand the need to seek assistance and obtain a referral for consultation and possible treatment; and

(c) A listing of examples of public and private crisis referral agencies available to public safety employees.

(3) The training developed by the commission shall be made available by the commission to all employees of state and local agencies that perform public safety duties. The commission may charge a reasonable fee to defer the cost of making the training available.

Sec. 18. RCW 34.12.035 and 1984 c 141 s 6 are each amended to read as follows:

The chief administrative law judge shall designate an administrative law judge with subject matter expertise to serve, as the need arises, as presiding officer in (~~(state))~~):

(1) State patrol disciplinary hearings conducted under RCW 43.43.090; and

(2) Decertification hearings conducted under RCW 43.101.380.

Sec. 19. RCW 40.14.070 and 2011 c 60 s 18 are each amended to read as follows:

(1)(a) (~~County~~) Other than those records detailed in subsection (4) of this section, county, municipal, and other local government agencies may request authority to destroy noncurrent public records having no further administrative or legal value by submitting to the division of archives and records management lists of such records on forms prepared by the division. The archivist, a representative appointed by the state auditor, and a representative appointed by the attorney general shall constitute a committee, known as the local records committee, which shall review such lists and which may veto the destruction of any or all items contained therein.

(b) A local government agency, as an alternative to submitting lists, may elect to establish a records control program based on recurring disposition schedules recommended by the agency to the local records committee. The schedules are to be submitted on forms provided by the division of archives and records management to the local records committee, which may either veto, approve, or amend the schedule. Approval of such schedule or amended schedule shall be by unanimous vote of the local records committee. Upon such approval, the schedule shall constitute authority for the local government agency to destroy the records listed thereon, after the required retention period, on a recurring basis until the schedule is either amended or revised by the committee.

(2)(a) Except as otherwise provided by law, and other than the law enforcement records detailed in subsection (4) of this section, no public records shall be destroyed until approved for destruction by the local records committee. Official public records shall not be destroyed unless:

(i) The records are six or more years old;

(ii) The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly where lesser federal retention periods for records generated by the state under federal programs have been established; or

(iii) The originals of official public records less than six years old have been copied or reproduced by any photographic, photostatic, microfilm, miniature photographic, or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original.

An automatic reduction of retention periods from seven to six years for official public records on record retention schedules existing on June 10, 1982, shall not be made, but the same shall be reviewed individually by the local records committee for approval or disapproval of the change to a retention period of six years.

The state archivist may furnish appropriate information, suggestions, and guidelines to local government agencies for their assistance in the preparation of lists and schedules or any other matter relating to the retention, preservation, or destruction of records under this chapter. The local records committee may adopt appropriate regulations establishing procedures to be followed in such matters.

Records of county, municipal, or other local government agencies, designated by the archivist as of primarily historical interest, may be transferred to a recognized depository agency.

(b)(i) Records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenders contained in chapter 9A.44 RCW or sexually violent offenses as defined in

RCW 71.09.020 that are not required in the current operation of the law enforcement agency or for pending judicial proceedings shall, following the expiration of the applicable schedule of the law enforcement agency's retention of the records, be transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval. Upon electronic retention of any document, the association shall be permitted to destroy the paper copy of the document.

(ii) Any sealed record transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval, including records sealed after transfer, shall be electronically retained in such a way that the record is clearly marked as sealed.

(iii) The Washington association of sheriffs and police chiefs shall be permitted to destroy both the paper copy and electronic record of any offender verified as deceased.

(c) Any record transferred to the Washington association of sheriffs and police chiefs pursuant to (b) of this subsection shall be deemed to no longer constitute a public record pursuant to RCW 42.56.010 and shall be exempt from public disclosure. Such records shall be disseminated only to criminal justice agencies as defined in RCW 10.97.030 for the purpose of determining if a sex offender met the criteria of a sexually violent predator as defined in chapter 71.09 RCW and the end-of-sentence review committee as defined by RCW 72.09.345 for the purpose of fulfilling its duties under RCW 71.09.025 and 9.95.420.

Electronic records marked as sealed shall only be accessible by criminal justice agencies as defined in RCW 10.97.030 who would otherwise have access to a sealed paper copy of the document, the end-of-sentence review committee as defined by RCW 72.09.345 for the purpose of fulfilling its duties under RCW 71.09.025 and 9.95.420, and the system administrator for the purposes of system administration and maintenance.

(3) Except as otherwise provided by law, county, municipal, and other local government agencies may, as an alternative to destroying noncurrent public records having no further administrative or legal value, donate the public records to the state library, local library, historical society, genealogical society, or similar society or organization.

Public records may not be donated under this subsection unless:

- (a) The records are seventy years old or more;
- (b) The local records committee has approved the destruction of the public records; and
- (c) The state archivist has determined that the public records have no historic interest.

(4) Personnel records for any peace officer or corrections officer must be retained for the duration of the officer's employment and a minimum of 10 years thereafter. Such records include all misconduct and equal employment opportunity complaints, progressive discipline imposed including written reprimands, supervisor coaching, suspensions, involuntary transfers, other disciplinary appeals and litigation records, and any other records needed to comply with the requirements set forth in RCW 43.101.095 and 43.101.135.

Sec. 20. RCW 43.101.380 and 2020 c 119 s 10 are each amended to read as follows:

(1) The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern hearings before the commission and govern all other actions before the commission unless otherwise provided in this chapter. The standard of proof in actions before the commission is ~~((clear, cogent, and convincing))~~ a preponderance of the evidence.

(2) In all hearings requested under RCW 43.101.155 ~~((or 43.101.156)),~~ an administrative law judge appointed under chapter 34.12 RCW shall be the presiding officer, shall make all necessary rulings in the course of the hearing, and shall issue a proposed recommendation, but is not entitled to vote. In addition, a five-member hearings panel shall ~~((both))~~ hear the case and make the commission's final administrative decision. ~~((Members of the commission may, but need not, be appointed to the hearings panels.))~~

(3) The commission shall appoint ~~((as follows two or more panels))~~ a panel to hear certification actions as follows:

(a) When a hearing is requested in relation to a certification action of a Washington peace officer ~~((who is not a peace officer of the Washington state patrol)),~~ the commission shall appoint to the panel: (i) ~~One police chief~~ ~~((; (ii) one))~~ or sheriff from an agency not a current or past employer of the peace officer; ~~((; (iii) two))~~ (ii) one certified Washington peace officer(s) who ((are)) is at or below the level of first line supervisor ~~((; one of whom is from a city or county law enforcement agency;))~~ and who ~~((have))~~ has at least ten years' experience as a peace officer(s); ~~((and (iv) one person who is not currently a peace officer and who represents a community college or four year college or university))~~ (iii) one civilian member of the commission as appointed under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer; and (v) one person with expertise and background in police accountability who is not a current or former peace officer or corrections officer.

(b) ~~((When a hearing is requested in relation to a certification action of a peace officer of the Washington state patrol, the commission shall appoint to the panel: (i) Either one police chief or one sheriff; (ii) one administrator of the state patrol; (iii) one certified Washington peace officer who is at or below the level of first line supervisor, who is not a state patrol officer, and who has at least ten years' experience as a peace officer; (iv) one state patrol officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; and (v) one person who is not currently a peace officer and who represents a community college or four year college or university.~~

~~((;))~~ When a hearing is requested in relation to a certification action of a Washington corrections officer, the commission shall appoint to the panel: (i) ~~((Two heads of))~~ A person who heads either a city or county corrections agency or facility or of a Washington state department of corrections facility; (ii) ~~((two))~~ one corrections officer(s) who ~~((are))~~ is at or below the level of first line supervisor ~~((; who are from city, county, or state corrections agencies;))~~ and who ~~((have))~~ has at least ten years' experience as a corrections officer(s); (iii) one civilian member of the commission as appointed under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer; and ((; (iii)) (v) one person with expertise and background in police accountability who is not ((currently)) a

current or former peace officer or corrections officer ((and who represents a community college or four-year college or university)).

~~((d))~~ (c) When a hearing is requested in relation to a certification action of a tribal police officer, the commission shall appoint to the panel (i) ~~((either one police chief or one sheriff; (ii)))~~ one tribal police chief; ~~((iii) one certified Washington peace officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; (iv)))~~ (ii) one tribal police officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; ~~((and (v) one person who is not currently a peace officer and who represents a community college or four-year college or university))~~ (iii) one civilian member of the commission as appointed under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer; and (v) one person with expertise and background in police accountability who is not a current or former peace officer or corrections officer.

~~((e))~~ (d) Persons appointed to hearings panels by the commission shall, in relation to any certification action on which they sit, have the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular commission members.

~~((3) Where the charge upon which revocation or denial is based is that a peace officer or corrections officer was "discharged for disqualifying misconduct," and the discharge is "final," within the meaning of RCW 43.101.105(1)(d) or 43.101.106(4), and the officer received a civil service hearing or arbitration hearing culminating in an affirming decision following separation from service by the employer, the hearings panel may revoke or deny certification if the hearings panel determines that the discharge occurred and was based on disqualifying misconduct;))~~ (4) In decertification matters where there was a due process hearing or a disciplinary appeals hearing following an investigation by a law enforcement agency, or a criminal hearing regarding the alleged misconduct, the hearings panel need not redetermine the underlying facts but may make ((this)) its determination based solely on review of the records and decision relating to ((the employment separation)) those proceedings and any investigative or summary materials from the administrative law judge, legal counsel, and commission staff. However, the hearings panel may, in its discretion, consider additional evidence to determine whether ((such a discharge)) misconduct occurred ((and was based on such disqualifying misconduct)). The hearings panel shall, upon written request by the subject peace officer or corrections officer, allow the peace officer or corrections officer to present additional evidence of extenuating circumstances.

~~((Where the charge upon which revocation or denial of certification is based is that a peace officer or corrections officer "has been convicted at any time of a felony offense" within the meaning of RCW 43.101.105(1)(e) or 43.101.106(3), the hearings panel shall revoke or deny certification if it determines that the peace officer or corrections officer was convicted of a felony. The hearings panel need not redetermine the underlying facts but may make this determination based solely on review of the records and decision relating to the criminal proceeding. However, the hearings panel shall, upon the panel's determination of~~

relevancy, consider additional evidence to determine whether the peace officer or corrections officer was convicted of a felony.

Where the charge upon which revocation or denial is based is under RCW 43.101.105(1) (a), (b), (c), or (f) or 43.101.106 (1), (2), (5), or (6), the hearings panel shall determine the underlying facts relating to the charge upon which revocation or denial of certification is based.

(4)) (5) The commission is authorized to proceed regardless of whether an arbitrator or other appellate decision maker overturns the discipline imposed by the officer's employing agency or whether the agency settles an appeal. No action or failure to act by a law enforcement agency or corrections agency or decision resulting from an appeal of that action precludes action by the commission to suspend or revoke an officer's certificate, to place on probation, or to require remedial training for the officer.

(6) The hearings, but not the deliberations of the hearings panel, are open to the public. The transcripts, admitted evidence, and written decisions of the hearings panel on behalf of the commission are not confidential or exempt from public disclosure, and are subject to subpoena and discovery proceedings in civil actions.

(7) Summary records of hearing dispositions must be made available on an annual basis on a public website.

(8) The commission's final administrative decision is subject to judicial review under RCW 34.05.510 through 34.05.598.

Sec. 21. RCW 43.101.400 and 2020 c 119 s 12 are each amended to read as follows:

(1) Except as provided under subsection (2) of this section, ~~((the following records of the commission are confidential and exempt from public disclosure: (a) The contents of personnel action reports filed under RCW 43.101.135 or 43.101.136; (b))~~ all files, papers, and other information obtained by the commission as part of an initial background investigation pursuant to RCW 43.101.095((5) or 43.101.096; and (c) all investigative files of the commission compiled in carrying out the responsibilities of the commission under this chapter) (2) and (4) are confidential and exempt from public disclosure. Such records are not subject to public disclosure, subpoena, or discovery proceedings in any civil action, except as provided in ~~((subsection (5) of this section))~~ RCW 43.101.380(6) or which become part of the record in a suspension or decertification matter.

(2) Records which are otherwise confidential and exempt under subsection (1) of this section may be reviewed and copied: (a) By the officer involved or the officer's counsel or authorized representative, who may review the officer's file and may submit any additional exculpatory or explanatory evidence, statements, or other information, any of which must be included in the file; (b) by a duly authorized representative of (i) the agency of termination, or (ii) a current employing law enforcement or corrections agency, which may review and copy its employee-officer's file; or (c) by a representative of or investigator for the commission.

(3) Records which are otherwise confidential and exempt under subsection (1) of this section may also be inspected at the offices of the commission by a duly authorized representative of a law enforcement or corrections agency considering an application for employment by a person who is the subject of a

record. A copy of records which are otherwise confidential and exempt under subsection (1) of this section may later be obtained by an agency after it hires the applicant. In all other cases under this subsection, the agency may not obtain a copy of the record.

~~(4) ((Upon a determination that a complaint is without merit, that a personnel action report filed under RCW 43.101.135 does not merit action by the commission, or that a matter otherwise investigated by the commission does not merit action, the commission shall purge records addressed in subsection (1) of this section.~~

~~(5) The hearings, but not the deliberations, of the hearings board are open to the public. The transcripts, admitted evidence, and written decisions of the hearings board on behalf of the commission are not confidential or exempt from public disclosure, and are subject to subpoena and discovery proceedings in civil actions.~~

(6)) The commission shall maintain a database that is publicly searchable, machine readable, and exportable, and accompanied by a complete, plain-language data dictionary describing the names of officers and employing agencies, all conduct investigated, certifications denied, notices and accompanying information provided by law enforcement or correctional agencies, including the reasons for separation from the agency, decertification or suspension actions pursued, and final disposition and the reasons therefor at least 30 years after final disposition of each incident. The dates for each material step of the process must be included. Any decertification must be reported to the national decertification index.

(5) Every individual, legal entity, and agency of federal, state, or local government is immune from civil liability, whether direct or derivative, for providing information to the commission in good faith.

NEW SECTION. Sec. 22. A new section is added to chapter 43.101 RCW to read as follows:

The commission must develop policies, procedures, and rules to ensure that the goals of this act are fully implemented as intended and in a timely manner, and to provide appropriate clarity to affected persons and entities as to how the commission will process complaints, investigations, and hearings, and impose sanctions, related to officer decertification. The commission must work in collaboration with interested parties and entities in developing the policies, procedures, and rules, and must take into account issues regarding when and how the commission may appropriately exercise authority in relation to simultaneous investigations and disciplinary processes, and how the commission may exercise available remedies in a manner that is appropriate to case circumstances and consistent with the goals of this act. The policies, procedures, and rules must be completed by June 30, 2022.

Sec. 23. RCW 41.56.905 and 1983 c 287 s 5 are each amended to read as follows:

The provisions of this chapter are intended to be additional to other remedies and shall be liberally construed to accomplish their purpose. Except as provided in RCW 53.18.015, 43.101.095, and 43.101.135, if any provision of this chapter conflicts with any other statute, ordinance, rule or regulation of any public employer, the provisions of this chapter shall control.

Sec. 24. RCW 49.44.200 and 2013 c 330 s 1 are each amended to read as follows:

(1) An employer may not:

(a) Request, require, or otherwise coerce an employee or applicant to disclose login information for the employee's or applicant's personal social networking account;

(b) Request, require, or otherwise coerce an employee or applicant to access his or her personal social networking account in the employer's presence in a manner that enables the employer to observe the contents of the account;

(c) Compel or coerce an employee or applicant to add a person, including the employer, to the list of contacts associated with the employee's or applicant's personal social networking account;

(d) Request, require, or cause an employee or applicant to alter the settings on his or her personal social networking account that affect a third party's ability to view the contents of the account; or

(e) Take adverse action against an employee or applicant because the employee or applicant refuses to disclose his or her login information, access his or her personal social networking account in the employer's presence, add a person to the list of contacts associated with his or her personal social networking account, or alter the settings on his or her personal social networking account that affect a third party's ability to view the contents of the account.

(2) This section does not apply to an employer's request or requirement that an employee share content from his or her personal social networking account if the following conditions are met:

(a) The employer requests or requires the content to make a factual determination in the course of conducting an investigation;

(b) The employer undertakes the investigation in response to receipt of information about the employee's activity on his or her personal social networking account;

(c) The purpose of the investigation is to: (i) Ensure compliance with applicable laws, regulatory requirements, or prohibitions against work-related employee misconduct; or (ii) investigate an allegation of unauthorized transfer of an employer's proprietary information, confidential information, or financial data to the employee's personal social networking account; and

(d) The employer does not request or require the employee to provide his or her login information.

(3) This section does not:

(a) Apply to a social network, intranet, or other technology platform that is intended primarily to facilitate work-related information exchange, collaboration, or communication by employees or other workers;

(b) Prohibit an employer from requesting or requiring an employee to disclose login information for access to: (i) An account or service provided by virtue of the employee's employment relationship with the employer; or (ii) an electronic communications device or online account paid for or supplied by the employer;

(c) Prohibit an employer from enforcing existing personnel policies that do not conflict with this section; ((~~or~~))

(d) Prevent an employer from complying with the requirements of state or federal statutes, rules or regulations, case law, or rules of self-regulatory organizations; or

(e) Apply to a background investigation in accordance with RCW 43.101.095. However, the officer must not be required to provide login information.

(4) If, through the use of an employer-provided electronic communications device or an electronic device or program that monitors an employer's network, an employer inadvertently receives an employee's login information, the employer is not liable for possessing the information but may not use the login information to access the employee's personal social networking account.

(5) For the purposes of this section and RCW 49.44.205:

(a) "Adverse action" means: Discharging, disciplining, or otherwise penalizing an employee; threatening to discharge, discipline, or otherwise penalize an employee; and failing or refusing to hire an applicant.

(b) "Applicant" means an applicant for employment.

(c) "Electronic communications device" means a device that uses electronic signals to create, transmit, and receive information, including computers, telephones, personal digital assistants, and other similar devices.

(d) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or other activity in this state and employs one or more employees, and includes the state, any state institution, state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation. "Employer" includes an agent, a representative, or a designee of the employer.

(e) "Login information" means a user name and password, a password, or other means of authentication that protects access to a personal social networking account.

Sec. 25. RCW 41.06.040 and 1969 ex.s. c 36 s 22 are each amended to read as follows:

The provisions of this chapter apply to:

(1) Each board, commission or other multimember body, including, but not limited to, those consisting in whole or in part of elective officers;

(2) Each agency, and each employee and position therein, not expressly excluded or exempted under the provisions of RCW 41.06.070 or otherwise excluded or exempted in this chapter.

NEW SECTION. Sec. 26. A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter do not apply in the Washington state criminal justice training commission to two confidential secretaries involved in managing the confidential records under RCW 43.101.135 and 43.101.400.

NEW SECTION. Sec. 27. No later than December 1, 2022, the criminal justice training commission shall submit a written report to the governor and the appropriate committees of the legislature detailing progress of implementation of this act.

NEW SECTION. Sec. 28. No later than December 1, 2021, the criminal justice training commission shall submit a written report to the governor and the appropriate committees of the legislature detailing the following:

(1) The average total number of peace officers each year who must complete the basic law enforcement academy training and the certification process without delay in order to begin work as full-time officers;

(2) The other categories of officers, and the average total number of such officers, who must complete the basic law enforcement academy training, the certification process, or both, prior to being authorized to enforce the criminal laws of this state on a part-time, as called-upon, or volunteer basis;

(3) Recommendations for amendments to update and align definitions and categorization of types of officers as set forth in statute and administrative rule, to eliminate ambiguity or inconsistencies and provide better clarity for law enforcement agencies, the criminal justice training commission, and the public as to the different types of officers, their authority, and their obligations to fulfill the requirements of chapter 43.101 RCW and other chapters;

(4) The current backlog for admission to the basic law enforcement academy and the approach taken by the criminal justice training commission to prioritize admission to training when there is insufficient capacity to meet the demand;

(5) The current and projected need for the number of basic law enforcement academy classes in order to meet the requirements of chapter 43.101 RCW and other chapters, and recommended funding to meet the projected need; and

(6) Any other related recommendations.

NEW SECTION. Sec. 29. The following acts or parts of acts are each repealed:

(1) RCW 43.101.096 (Corrections officer certification) and 2020 c 119 s 3;

(2) RCW 43.101.106 (Denial or revocation of corrections officer certification) and 2020 c 119 s 4;

(3) RCW 43.101.116 (Denial or revocation of corrections officer certification—Readmission to academy—Reinstatement) and 2020 c 119 s 5;

(4) RCW 43.101.136 (Termination of corrections officer—Notification to commission) and 2020 c 119 s 7;

(5) RCW 43.101.146 (Written complaint by corrections officer or corrections agency to deny or revoke corrections officer certification—Immunity of complainant) and 2020 c 119 s 8;

(6) RCW 43.101.156 (Denial or revocation of corrections officer certification—Statement of charges—Notice—Hearing) and 2020 c 119 s 9; and

(7) RCW 43.101.180 (Priorities) and 1981 c 136 s 27 & 1974 ex.s. c 94 s 18.

NEW SECTION. Sec. 30. A new section is added to chapter 10.93 RCW to read as follows:

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

any and all liability that may potentially result from the release and use of such information provided.

Sec. 31. RCW 43.101.200 and 2019 c 415 s 969 are each amended to read as follows:

(1) All law enforcement personnel, except volunteers, and reserve officers whether paid or unpaid, initially employed on or after January 1, 1978, shall engage in basic law enforcement training which complies with standards adopted by the commission pursuant to RCW 43.101.080. For personnel initially employed before January 1, 1990, such training shall be successfully completed during the first fifteen months of employment of such personnel unless otherwise extended or waived by the commission and shall be requisite to the continuation of such employment. Personnel initially employed on or after January 1, 1990, shall commence basic training during the first six months of employment unless the basic training requirement is otherwise waived or extended by the commission. Successful completion of basic training is requisite to the continuation of employment of such personnel initially employed on or after January 1, 1990.

(2) Except as (~~otherwise~~) provided in (~~this chapter~~) RCW 43.101.170, the commission shall provide the aforementioned training (~~together with~~) and shall have the sole authority to do so. The commission shall provide necessary facilities, supplies, materials, and the board and room of noncommuting attendees for seven days per week, except during the 2017-2019 and 2019-2021 fiscal biennia when the employing, county, city, or state law enforcement agency shall reimburse the commission for twenty-five percent of the cost of training its personnel. Additionally, to the extent funds are provided for this purpose, the commission shall reimburse to participating law enforcement agencies with ten or less full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training: PROVIDED, That such reimbursement shall include only the actual cost of temporary replacement not to exceed the total amount of salary and benefits received by the replaced officer during his or her training period.

Passed by the Senate April 21, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 324

[Engrossed Second Substitute House Bill 1310]

LAW ENFORCEMENT AND CORRECTIONAL OFFICERS—PERMISSIBLE USES OF FORCE

AN ACT Relating to permissible uses of force by law enforcement and correctional officers; amending RCW 43.101.450; adding a new section to chapter 43.101 RCW; adding a new chapter to Title 10 RCW; creating new sections; and repealing RCW 10.31.050.

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

NEW SECTION. Sec. 1. The legislature recognizes that additional clarity is necessary following the passage of Initiative Measure No. 940 (chapter 1, Laws of 2019) and Substitute House Bill No. 1064 (chapter 4, Laws of 2019). The legislature intends to address excessive force and discriminatory policing by

establishing a requirement for law enforcement and community corrections officers to act with reasonable care when carrying out their duties, including using de-escalation tactics and alternatives to deadly force. Further, the legislature intends to address public safety concerns by limiting the use of deadly force to very narrow circumstances where there is an imminent threat of serious physical injury or death. It is the intent of the legislature that when practicable, peace officers will use the least amount of physical force necessary to overcome actual resistance under the circumstances.

It is the fundamental duty of law enforcement to preserve and protect all human life.

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

(1) "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) "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) "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.

NEW SECTION. Sec. 3. (1)(a) Except as otherwise provided under this section, a peace officer may use physical force against a person when necessary to: Protect against criminal conduct where there is probable cause to make an arrest; effect an arrest; prevent an escape as defined under chapter 9A.76 RCW; or 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 peace officer may use deadly force against another person only when necessary to protect against an imminent threat of serious physical injury or death to the officer or another person. For purposes of this subsection (1)(b):

(i) "Imminent 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) 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) 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) Nothing in this section 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. (1) By July 1, 2022, the attorney general shall develop and publish model policies on law enforcement's use of force and de-escalation tactics consistent with section 3 of this act.

(2) By December 1, 2022, all law enforcement agencies shall: Adopt policies consistent with the model policies and submit copies of the applicable policies to the attorney general; or, if the agency did not adopt policies consistent with the model policies, provide notice to the attorney general stating the reasons for any departures from the model policies and an explanation of how the agency's policies are consistent with section 3 of this act, including a copy of the

agency's relevant policies. After December 1, 2022, whenever a law enforcement agency modifies or repeals any policies pertaining to the use of force or de-escalation tactics, the agency shall submit notice of such action with copies of any relevant policies to the attorney general within 60 days.

(3) By December 31st of each year, the attorney general shall publish on its website a report on the requirements of this section, including copies of the model policies, information as to the status of individual agencies' policies, and copies of any agency policies departing from the model policies.

NEW SECTION. Sec. 5. A new section is added to chapter 43.101 RCW to read as follows:

The basic training provided to criminal justice personnel by the commission must be consistent with the standards in section 3 of this act and the model policies established by the attorney general under section 4 of this act.

Sec. 6. RCW 43.101.450 and 2019 c 1 s 3 (Initiative Measure No. 940) are each amended to read as follows:

(1) Beginning one year after December 6, 2018, all law enforcement officers in the state of Washington must receive violence de-escalation training. Law enforcement officers beginning employment after December 6, 2018, must successfully complete such training within the first (~~fifteen~~)15 months of employment. The commission shall set the date by which other law enforcement officers must successfully complete such training.

(2) All law enforcement officers shall periodically receive continuing violence de-escalation training to practice their skills, update their knowledge and training, and learn about new legal requirements and violence de-escalation strategies.

(3) The commission shall set training requirements through the procedures in RCW 43.101.455.

(4) Violence de-escalation training provided under this section must be consistent with section 3 of this act and the model policies established by the attorney general under section 4 of this act.

(5) The commission shall submit a report to the legislature and the governor by January 1st and July 1st of each year on the implementation of and compliance with subsections (1) and (2) of this section. The report must include data on compliance by agencies and officers. The report may also include recommendations for any changes to laws and policies necessary to improve compliance with subsections (1) and (2) of this section.

NEW SECTION. Sec. 7. RCW 10.31.050 (Officer may use force) and 2010 c 8 s 1031, Code 1881 s 1031, 1873 p 229 s 211, & 1854 p 114 s 75 are each repealed.

NEW SECTION. Sec. 8. Sections 2 through 4 of this act constitute a new chapter in Title 10 RCW.

NEW SECTION. Sec. 9. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the House April 23, 2021.

Passed by the Senate April 23, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 325

[Engrossed Substitute Senate Bill 5263]

LAW ENFORCEMENT—PERSONAL INJURY AND WRONGFUL DEATH CIVIL ACTIONS— DEFENSES

AN ACT Relating to defenses in personal injury and wrongful death actions where the person injured or killed was committing a felony; and amending RCW 4.24.420.

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

Sec. 1. RCW 4.24.420 and 1987 c 212 s 901 are each amended to read as follows:

~~((H))~~ (1) Except in an action arising out of law enforcement activities resulting in personal injury or death, it is a complete defense to any action for damages for personal injury or wrongful death that the person injured or killed was engaged in the commission of a felony at the time of the occurrence causing the injury or death and the felony was a proximate cause of the injury or death.
~~((However, nothing))~~

(2) In an action arising out of law enforcement activities resulting in personal injury or death, it is a complete defense to the action that the finder of fact has determined beyond a reasonable doubt that the person injured or killed was engaged in the commission of a felony at the time of the occurrence causing the injury or death, the commission of which was a proximate cause of the injury or death.

(3) Nothing in this section shall affect a right of action under 42 U.S.C. Sec. 1983.

Passed by the Senate March 5, 2021.

Passed by the House April 8, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 326

[Engrossed Second Substitute Senate Bill 5259]

LAW ENFORCEMENT—USE OF FORCE—DATA COLLECTION

AN ACT Relating to requiring reporting, collecting, and publishing information regarding law enforcement interactions with the communities they serve; adding a new chapter to Title 10 RCW; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** The legislature finds that law enforcement transparency and accountability are vital in maintaining public trust. Data collection is one essential tool to allow the public, law enforcement, and policymakers to analyze the effectiveness of existing police practices, determine which policies and training work and do not work, and avoid unintended consequences by supporting policy decisions with clear and relevant data.

The legislature finds that creating a statewide data collection program that creates a publicly accessible database to track metrics will help to promote openness, transparency, and accountability, build stronger police-community

relations, improve trust and confidence in policing services, evaluate specific areas of concern such as biased policing and excessive force, and ultimately improve the quality of policing services.

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

(1) "Contractor" means the institution of higher education contracted with the office of the attorney general to implement the statewide use of force data program as provided in this chapter.

(2) "Great bodily harm" has the same meaning as in RCW 9A.04.110.

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

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

(5) "Substantial bodily harm" has the same meaning as in RCW 9A.04.110.

NEW SECTION. Sec. 3. (1)(a) Subject to the availability of amounts appropriated for this specific purpose, the attorney general's office shall establish an advisory group to assist with the office's design, development, and implementation of a statewide use of force data program. Members are appointed by the attorney general's office and must consist of:

(i) At least three representatives from local nongovernmental organizations or advocacy groups that have a focus on or expertise in the use and role of data as it relates to interactions between law enforcement and the community;

(ii) At least three representatives from law enforcement agencies or organizations representing the interests of law enforcement in interacting and utilizing this data; and

(iii) At least one representative from the private sector or the public sector with experience in data collection programs, preferably law enforcement data collection.

(b) To ensure the advisory group has diverse and inclusive representation of those affected by its work, advisory group members whose participation in the advisory group may be hampered by financial hardship may apply for a stipend in an amount not to exceed \$100 for each day during which the member attends an official meeting of the advisory group or performs prescribed duties approved by the attorney general's office.

(2) By April 1, 2022, the advisory group shall submit to the attorney general its recommendations on the following elements:

(a) How to prioritize the implementation of the reporting, collection, and publication of the use of force data reports required in section 4(2) of this act;

(b) Additional incidents and data to be collected from law enforcement agencies on interactions between officers and the public, such as traffic stops, pedestrian stops, calls for services, arrests, vehicle pursuits, and disciplinary actions, as well as demographic information including race, ethnicity, and gender of a crime victim or victims. This recommendation should consider phased implementation, if necessary, based on current practices and available data as compared to additional practices and new data that would need to be implemented by law enforcement agencies;

(c) Recommend practices for law enforcement agencies to collect and report data to the contractor. To the greatest extent feasible, the reporting mechanisms for the program must include the opportunity for law enforcement agencies to submit the required data elements through incident reports or any other electronic means. The advisory group may also work to develop a standardized incident report that meets the data and reporting requirements of the statewide use of force data program for voluntary use by law enforcement agencies;

(d) Recommend practices for the public to report relevant information to the contractor directly, or its successor, including correcting misreported and otherwise incorrect data;

(e) Recommend practices for public, law enforcement, and academic access and use of program data that must include, at a minimum:

(i) Public access to deidentified raw and/or refined incident based data using an established open data standard, available online at no cost in a downloadable, machine-readable, nonproprietary format, redacted only as necessary to comply with the public records act (chapter 42.56 RCW) and the Washington state criminal records privacy act (chapter 10.97 RCW);

(ii) Publicly accessible online data dashboards that summarize and analyze the data, excluding personally identifiable information;

(iii) Interactive data visualization tools designed for law enforcement agencies and other entities to use the data for research, professional development, training, and management;

(iv) The ability to extract data from incident reports, or other electronic means, and officer narratives in order to standardize data across multiple agencies;

(v) Ensure protection and removal of all personally identifiable information of officers, subjects, and victims in any data or analyses that are publicly released; and

(vi) Semiannual reports, summarizing the data collected and any related analysis, published on the website and submitted to the legislature and governor by June 1st and December 1st of each year;

(f) Recommend practices for quality improvement, including periodically obtaining input from stakeholders about how the program can better meet the needs of the public and law enforcement;

(g) Recommend practices in the following areas:

(i) Analytical dashboards with individual officer details for use by law enforcement agencies as a risk management tool;

(ii) Agency level comparative dashboards for all law enforcement agencies in the state;

(iii) Incorporating available historical data to identify long-term trends and patterns; and

(iv) Analysis of data, using methodologies based in best practices or tested and validated in other jurisdictions, if possible, including, but not limited to, analysis of the data using legal algorithms based on available and applicable legal standards.

(3)(a) The office of the attorney general shall review the recommendations of the advisory group and approve or reject, in whole or in part, the recommendations. In reviewing the program recommendations, the office of the attorney general shall consider:

- (i) Available funding to achieve the recommendations;
- (ii) Prioritizing the implementation of the reporting, collection, and publication of the use of force data reports in section 4(2) of this act;
- (iii) The interests of the public in accessing information in a transparent and expedient manner. In considering the interests of the public, the advisory board shall accept and consider comments from impacted family members or their designees;
- (iv) The institutional operations and demands of law enforcement agencies through input and comments from the criminal justice training center and local law enforcement agencies.

(b) For any recommendation that was rejected, in part or in full, the advisory group may submit revised recommendations for consideration by the office of the attorney general in accordance with any deadlines established by the office. The office of the attorney general may also approve recommendations subject to the legislature appropriating the funding necessary for their implementation.

(c) The office of the attorney general may not approve any recommendation that requires any law enforcement agency to disclose information that would jeopardize an active criminal investigation, confidential informant, or intelligence information.

(4) The approved recommendations and the requirements contained in section 4 of this act constitute the statewide use of force data program.

(5) This section expires January 1, 2023.

NEW SECTION. Sec. 4. (1) Each law enforcement agency in the state is required to report each incident where a law enforcement officer employed by the agency used force and:

- (a) A fatality occurred in connection with the use of force;
- (b) Great bodily harm occurred in connection with the use of force;
- (c) Substantial bodily harm occurred in connection with the use of force; or
- (d) A law enforcement officer:
 - (i) Discharged a firearm at or in the direction of a person;
 - (ii) Pointed a firearm at a person;
 - (iii) Used a chokehold or vascular neck restraint;
 - (iv) Used an electronic control weapon including, but not limited to, a taser, against a person;
 - (v) Used oleoresin capsicum spray against a person;
 - (vi) Discharged a less lethal shotgun or other impact munitions at or in the direction of a person;
 - (vii) Struck a person using an impact weapon or instrument including, but not limited to, a club, baton, or flashlight;
 - (viii) Used any part of their body to physically strike a person including, but not limited to, punching, kicking, slapping, or using closed fists or feet;
 - (ix) Used a vehicle to intentionally strike a person or vehicle; or
 - (x) Deployed a canine by releasing it from the physical control of the law enforcement officer or had under the law enforcement officer's control a canine that bites a person.

(2) Each report required in subsection (1) of this section must include the following information:

- (a) The date and time of the incident;
- (b) The location of the incident;

- (c) The agency or agencies employing the law enforcement officers;
- (d) The type of force used by the law enforcement officer;
- (e) The type of injury to the person against whom force was used, if any;
- (f) The type of injury to the law enforcement officer, if any;
- (g) Whether the person against whom force was used was armed or unarmed;
- (h) Whether the person against whom force was used was believed to be armed;
- (i) The type of weapon the person against whom force was used was armed with, if any;
- (j) The age, gender, race, and ethnicity of the person against whom force was used, if known;
- (k) The tribal affiliation of the person against whom force was used, if applicable and known;
- (l) Whether the person against whom force was used exhibited any signs associated with a potential mental health condition or use of a controlled substance or alcohol based on the observation of the law enforcement officer;
- (m) The name, age, gender, race, and ethnicity of the law enforcement officer, if known;
- (n) The law enforcement officer's years of service;
- (o) The reason for the initial contact between the person against whom force was used and the law enforcement officer;
- (p) Whether any minors were present at the scene of the incident, if known;
- (q) The entity conducting the independent investigation of the incident, if applicable;
- (r) Whether dashboard or body worn camera footage was recorded for an incident;
- (s) The number of officers who were present when force was used; and
- (t) The number of suspects who were present when force was used.

(3) Each law enforcement agency must also report any additional incidents and data required by the statewide use of force data program developed in section 3 of this act.

(4) All law enforcement agencies shall submit the reports required by this section in accordance with the requirements of the statewide use of force data program no later than three months after the office of the attorney general determines that the system procured in section 5 of this act can accept law enforcement agency reports. Reports must be made in the format and time frame established in the statewide use of force data program.

(5) A law enforcement agency has satisfied its reporting obligations pursuant to this act by submitting the reports and data required under this section. The contractor shall provide technical assistance to any law enforcement agency in gathering, compiling, and submitting the required reports and data for each incident.

NEW SECTION. Sec. 5. (1) Subject to the availability of amounts appropriated for this specific purpose, the office of the attorney general must engage in a competitive procurement to contract with an institution of higher education to implement the statewide use of force data program. The primary purpose of the contract is to develop a system for law enforcement agencies to

report, collect, and publish the use of force data reports required in section 4 of this act.

(2) The request for proposal or other procurement method should encourage collaboration with other public and private institutions, businesses, and organizations with significant expertise and experience in collecting, tracking, and reporting data on law enforcement interactions with the public.

(3) Members and representatives of entities participating in the advisory group established in section 3 of this act may not participate or bid in the competitive procurement.

(4) The advisory group, or designated members of the group, may participate in the procurement process through the development of the request for proposal and the review and evaluation of responsive bidders.

(5) The contract must require the successful bidder to provide appropriate training to its staff and subcontractor staff, including training on racial equity issues.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act constitute a new chapter in Title 10 RCW.

Passed by the Senate April 14, 2021.

Passed by the House April 6, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 327

[Engrossed Substitute Senate Bill 5353]

LAW ENFORCEMENT—COMMUNITY ENGAGEMENT—GRANTS

AN ACT Relating to creating a partnership model that facilitates community engagement with law enforcement; adding a new section to chapter 43.330 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 community engagement is a foundational principle of successful community policing practices. When individuals and neighborhood groups are encouraged to partner with law enforcement, a powerful alliance can be built on mutual trust and respect and mitigate polarization between police departments and community groups. A successful community-police partnership leads to the achievement of shared goals of improving safety and quality of life and ensuring that public safety services are tailored to the needs of local communities.

The legislature recognizes current efforts in Washington to mobilize communities to insist on equitable and accountable practices that will result in community participation in public safety efforts as well as establish cooperative lines of communication between civilians and law enforcement. Laudable community engagement models such as the safe streets campaign in Pierce county, safe Yakima in Yakima county, and the Okanogan county community coalition are recognized to mitigate crime trends by engaging the community and law enforcement in cooperative efforts to improve public safety.

The department of commerce intends to foster community engagement with law enforcement officers through the creation of a community engagement

project in 15 communities across the state of Washington with a mix of urban, rural, and suburban areas to facilitate community-law enforcement partnerships and improve police-community relations. The department will implement a project evaluation to measure and examine the impact of local initiatives on community engagement, neighborhood safety, and positive community-police relations.

The funded projects will facilitate the empowerment of communities to engage in crime prevention efforts through neighborhood organizing, law enforcement-community partnerships, youth mobilization, and business engagement.

NEW SECTION, Sec. 2. A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, a project is created in the department to foster community engagement through neighborhood organizing, law enforcement-community partnerships, youth mobilization, and business engagement. The department shall administer the project. The project must include 12 to 15 grant awards in those counties that have demonstrated their commitment to programs that promote community engagement in public safety including the following counties: Spokane, Pierce, King, Okanogan, Yakima, Cowlitz, Clark, Chelan-Douglas, Walla-Walla, Benton-Franklin, Grant, and Snohomish.

(2) The department shall adopt policies and procedures necessary to administer the project including: (a) An application process; (b) disbursement of the grant award to selected applicants; (c) tracking compliance and proper use of funds; and (d) measuring outcomes.

(3) Eligible applicants must:

- (a) Be a public agency or nongovernmental organization;
- (b) Have demonstrated experience with community engagement initiatives that impact public safety;
- (c) Have community engagement;
- (d) Have established or be willing to establish a coordinated effort with committed partners, which must include law enforcement and organizations committed to diversity, equity, and inclusion of community members, including organizations whose leadership specifically reflects the communities most impacted by racism; and

(e) Have established priorities, policies, and measurable goals in compliance with the requirements of the project as provided in subsection (5) of this section.

(4) A law enforcement agency applying for a grant award shall not be considered an eligible applicant unless there are no other eligible applicants from the community or county the law enforcement agency serves.

(5) The grant recipient shall:

- (a) Lead and facilitate neighborhood organizing initiatives, including:
 - (i) Empowering community members with tools, skills, confidence, and connections to identify, eradicate, and prevent illegal activity;
 - (ii) Making neighborhood improvements to deter future criminal activity; and
 - (iii) Educating community members regarding how to connect with city, county, and law enforcement resources;

(b) Build substantive law enforcement-community partnerships, including:

(i) Building trust between community members and law enforcement by facilitating purposeful antiracist practices and the development of policies that lead to equal treatment under the law;

(ii) Establishing clear expectations for law enforcement to be competent to practice fair and equitable treatment including facilitating dialogue between law enforcement and community members to increase understanding of the impact of historical racist practices and current conflicts;

(iii) Community members regularly informing law enforcement, through presentations, workshops, or forums, on community perceptions of law enforcement and public safety issues;

(iv) Educating community members on the role and function of law enforcement in the community;

(v) Clarifying expectations of law enforcement and of the role of the community in crime prevention;

(vi) Educating community members on the best practices for reporting emergency and nonemergency activities;

(vii) Recognizing community members for effective engagement and community leadership; and

(viii) Recognizing law enforcement officials for efforts to engage underrepresented communities, improve community engagement and empowerment, and reform law enforcement practices;

(c) Mobilize youth to partner with neighborhood groups and law enforcement to prevent violence by:

(i) Helping them develop knowledge and skills to serve as leaders in their communities;

(ii) Focusing on prevention of violence and substance abuse; and

(iii) Empowering youth to bring their voice to community issues that impact healthy police-community relations;

(d) Engage businesses to help prevent crimes, such as vandalism and burglaries, through safety training and other prevention initiatives;

(e) Provide training and technical assistance on how to implement community engagement, improving law enforcement and community partnership, youth engagement, and business engagement;

(f) Identify and maintain consistent, experienced, and committed leadership for managing the grant, including an administrator who acts as an available point of contact with the department; and

(g) Collect and report data and information required by the department.

(6) The department shall, in consultation with the Washington state institute for public policy, develop reporting guidelines for the grant recipient in order to measure whether the safe streets pilot project had an impact on crime rates and community engagement with, and perceptions of, law enforcement. The department shall submit a preliminary report to the legislature with details on the selected grant recipients and the reporting guidelines by January 1, 2022. The department shall submit a final report on the safe streets pilot project, including an analysis of the reported data required under this subsection, by December 1, 2023.

(7) This section expires January 1, 2024.

Passed by the Senate April 14, 2021.

Passed by the House April 9, 2021.
 Approved by the Governor May 18, 2021.
 Filed in Office of Secretary of State May 18, 2021.

CHAPTER 328

[Engrossed Substitute House Bill 1140]

LAW ENFORCEMENT CONTACT WITH JUVENILES—ACCESS TO ATTORNEY

AN ACT Relating to juvenile access to attorneys when contacted by law enforcement; amending RCW 13.40.140, 2.70.020, and 13.40.020; adding a new section to chapter 13.40 RCW; adding a new section to chapter 2.70 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 13.40 RCW to read as follows:

(1) Except as provided in subsection (4) of this section, law enforcement shall provide a juvenile with access to an attorney for consultation, which may be provided in person, by telephone, or by video conference, before the juvenile waives any constitutional rights if a law enforcement officer:

- (a) Questions a juvenile during a custodial interrogation;
- (b) Detains a juvenile based on probable cause of involvement in criminal activity; or
- (c) Requests that the juvenile provide consent to an evidentiary search of the juvenile or the juvenile's property, dwellings, or vehicles under the juvenile's control.

(2) The consultation required by subsection (1) of this section may not be waived.

(3) Statements made by a juvenile after the juvenile is contacted by a law enforcement officer in a manner described under subsection (1) of this section are not admissible in a juvenile offender or adult criminal court proceeding, unless:

- (a) The juvenile has been provided with access to an attorney for consultation; and the juvenile provides an express waiver knowingly, intelligently, and voluntarily made by the juvenile after the juvenile has been fully informed of the rights being waived as required under RCW 13.40.140;
- (b) The statement is for impeachment purposes; or
- (c) The statement was made spontaneously.

(4) A law enforcement officer may question a juvenile without following the requirement in subsection (1) of this section if:

(a) The law enforcement officer believes the juvenile is a victim of trafficking as defined in RCW 9A.40.100; however, any information obtained from the juvenile by law enforcement pursuant to this subsection cannot be used in any prosecution of that juvenile; or

(b)(i) The law enforcement officer believes that the information sought is necessary to protect an individual's life from an imminent threat;

(ii) A delay to allow legal consultation would impede the protection of an individual's life from an imminent threat; and

(iii) Questioning by the law enforcement officer is limited to matters reasonably expected to obtain information necessary to protect an individual's life from an imminent threat.

(5) After the juvenile has consulted with legal counsel, the juvenile may advise, direct a parent or guardian to advise, or direct legal counsel to advise the law enforcement officer that the juvenile chooses to assert a constitutional right. Any assertion of constitutional rights by the juvenile through legal counsel must be treated by a law enforcement officer as though it came from the juvenile. The waiver of any constitutional rights of the juvenile may only be made according to the requirements of RCW 13.40.140.

(6) For purposes of this section, the following definitions apply:

(a) "Juvenile" means any individual who is under the chronological age of 18 years; and

(b) "Law enforcement officer" means any general authority, limited authority, or specially commissioned Washington peace officer or federal peace officer as those terms are defined in RCW 10.93.020, including school resource officers as defined in RCW 28A.320.124 and other public officers who are responsible for enforcement of fire, building, zoning, and life and safety codes.

Sec. 2. RCW 13.40.140 and 2014 c 110 s 2 are each amended to read as follows:

(1) A juvenile shall be advised of (~~(his or her)~~) the juvenile's rights when appearing before the court.

(2) A juvenile and (~~(his or her)~~) the juvenile's parent, guardian, or custodian shall be advised by the court or its representative that the juvenile has a right to be represented by counsel at all critical stages of the proceedings. Unless waived, counsel shall be provided to a juvenile who is financially unable to obtain counsel without causing substantial hardship to himself or herself or the juvenile's family, in any proceeding where the juvenile may be subject to transfer for criminal prosecution, or in any proceeding where the juvenile may be in danger of confinement. The ability to pay part of the cost of counsel does not preclude assignment. In no case may a juvenile be deprived of counsel because of a parent, guardian, or custodian refusing to pay therefor. The juvenile shall be fully advised of (~~(his or her)~~) the juvenile's right to an attorney and of the relevant services an attorney can provide.

(3) The right to counsel includes the right to the appointment of experts necessary, and the experts shall be required pursuant to the procedures and requirements established by the supreme court.

(4) Upon application of a party, the clerk of the court shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing, or such subpoenas may be issued by an attorney of record.

(5) All proceedings shall be transcribed verbatim by means which will provide an accurate record.

(6) The general public and press shall be permitted to attend any hearing unless the court, for good cause, orders a particular hearing to be closed. The presumption shall be that all such hearings will be open.

(7) In all adjudicatory proceedings before the court, all parties shall have the right to adequate notice, discovery as provided in criminal cases, opportunity to be heard, confrontation of witnesses except in such cases as this chapter expressly permits the use of hearsay testimony, findings based solely upon the evidence adduced at the hearing, and an unbiased fact finder.

(8) A juvenile shall be accorded the same privilege against self-incrimination as an adult and the protections provided in section 1 of this act. An extrajudicial statement which would be constitutionally inadmissible in a criminal proceeding may not be received in evidence at an adjudicatory hearing over objection. Evidence illegally seized or obtained, including evidence obtained in violation of section 1 of this act, may not be received in evidence over objection at an adjudicatory hearing to prove the allegations against the juvenile if the evidence would be inadmissible in an adult criminal proceeding. An extrajudicial admission or confession made by the juvenile out of court is insufficient to support a finding that the juvenile committed the acts alleged in the information unless evidence of a corpus delicti is first independently established in the same manner as required in an adult criminal proceeding.

(9) Statements, admissions, or confessions made by a juvenile in the course of a mental health or chemical dependency screening or assessment, whether or not the screening or assessment was ordered by the court, shall not be admissible into evidence against the juvenile on the issue of guilt in any juvenile offense matter or adult criminal proceeding, unless the juvenile has placed ~~((his or her))~~ the juvenile's mental health at issue. The statement is admissible for any other purpose or proceeding allowed by law. This prohibition does not apply to statements, admissions, or confessions made to law enforcement, and may not be used to argue for derivative suppression of other evidence lawfully obtained as a result of an otherwise inadmissible statement, admission, or confession.

(10) Waiver of any right which a juvenile has under this chapter must be an express waiver intelligently made by the juvenile after the juvenile has been fully informed of the right being waived, including having access to an attorney for consultation if required under section 1 of this act.

(11) Whenever this chapter refers to waiver or objection by a juvenile, the word juvenile shall be construed to refer to a juvenile who is at least ~~((twelve))~~ 12 years of age. If a juvenile is under ~~((twelve))~~ 12 years of age, the juvenile's parent, guardian, or custodian shall give any waiver or offer any objection contemplated by this chapter.

Sec. 3. RCW 2.70.020 and 2012 c 257 s 1 are each amended to read as follows:

The director shall:

(1) Administer all state-funded services in the following program areas:

(a) Trial court criminal indigent defense, as provided in chapter 10.101 RCW;

(b) Appellate indigent defense, as provided in this chapter;

(c) Representation of indigent parents qualified for appointed counsel in dependency and termination cases, as provided in RCW 13.34.090 and 13.34.092;

(d) Extraordinary criminal justice cost petitions, as provided in RCW 43.330.190;

(e) Compilation of copies of DNA test requests by persons convicted of felonies, as provided in RCW 10.73.170;

(f) Representation of indigent respondents qualified for appointed counsel in sexually violent predator civil commitment cases, as provided in chapter 71.09 RCW; and

(g) Provide access to attorneys for juveniles contacted by a law enforcement officer for whom a legal consultation is required under section 1 of this act;

(2) Submit a biennial budget for all costs related to the office's program areas;

(3) Establish administrative procedures, standards, and guidelines for the office's program areas, including cost-efficient systems that provide for authorized recovery of costs;

(4) Provide oversight and technical assistance to ensure the effective and efficient delivery of services in the office's program areas;

(5) Recommend criteria and standards for determining and verifying indigency. In recommending criteria for determining indigency, the director shall compile and review the indigency standards used by other state agencies and shall periodically submit the compilation and report to the legislature on the appropriateness and consistency of such standards;

(6) Collect information regarding indigent defense services funded by the state and report annually to the advisory committee, the legislature, and the supreme court;

(7) Coordinate with the supreme court and the judges of each division of the court of appeals to determine how appellate attorney services should be provided.

The office of public defense shall not provide direct representation of clients.

NEW SECTION. Sec. 4. A new section is added to chapter 2.70 RCW to read as follows:

Subject to the rules of discovery, the office of public defense is authorized to collect identifying information for any youth who speaks with a consulting attorney pursuant to section 1 of this act; provided, however, that such records are exempt from public disclosure.

Sec. 5. RCW 13.40.020 and 2019 c 444 s 9 are each amended to read as follows:

For the purposes of this chapter:

(1) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse, or co-occurring mental health and substance abuse disorders, and recommendations for treatment. "Assessment" includes, but is not limited to, drug and alcohol evaluations, psychological and psychiatric evaluations, records review, clinical interview, and administration of a formal test or instrument;

(2) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services including, when appropriate, restorative justice programs; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(3) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed (~~five hundred dollars~~) \$500;

(b) Community restitution not to exceed (~~one hundred fifty~~) 150 hours of community restitution;

(4) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(5) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, co-occurring disorder specialist, or substance use disorder professional and a funded bed is available. If a child agrees to voluntary placement in a state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;

(B) The referral is necessary to protect the public or the child;

(C) The referral is in the child's best interest;

(D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and

(E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than (~~sixty~~) 60 days after the youth begins inpatient treatment, and every (~~thirty~~) 30 days thereafter, as long as the youth is in inpatient treatment;

(6) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to

operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than ~~((thirty-one))~~ 31 days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(7) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(8) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(9) "Custodial interrogation" means express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody;

(10) "Department" means the department of children, youth, and families;

~~((+0))~~ (11) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

~~((+1))~~ (12) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

~~((+2))~~ (13) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

~~((+3))~~ (14) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

~~((14))~~ (15) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

~~((15))~~ (16) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of ~~((eighteen))~~ 18 years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

~~((16))~~ (17) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person ~~((eighteen))~~ 18 years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

~~((17))~~ (18) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

~~((18))~~ (19) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

~~((19))~~ (20) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

~~((20))~~ (21) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

~~((21))~~ (22) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

~~((22))~~ (23) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

~~((23))~~ (24) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an

additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

~~((24))~~ (25) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

~~((25))~~ (26) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

~~((26))~~ (27) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

~~((27))~~ (28) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members;

~~((28))~~ (29) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

~~((29))~~ (30) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

~~((30))~~ (31) "Secretary" means the secretary of the department;

~~((31))~~ (32) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((32))~~ (33) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((33))~~ (34) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of ~~((his or her))~~ the respondent's sexual gratification;

~~((34))~~ (35) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

~~((35))~~ (36) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

~~((36))~~ (37) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

~~((37))~~ (38) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

~~((38))~~ (39) "Youth court" means a diversion unit under the supervision of the juvenile court.

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, 2021, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 7. This act takes effect January 1, 2022.

Passed by the House April 15, 2021.

Passed by the Senate April 11, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 329

[Substitute House Bill 1223]

UNIFORM ELECTRONIC RECORDATION OF CUSTODIAL INTERROGATIONS ACT

AN ACT Relating to the uniform electronic recordation of custodial interrogations act; reenacting and amending RCW 9.73.030; adding a new chapter to Title 10 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. SHORT TITLE. This chapter may be known and cited as the uniform electronic recordation of custodial interrogations act.

NEW SECTION. Sec. 2. DEFINITIONS. In this chapter:

(1) "Custodial interrogation" means express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody.

(2) "Electronic recording" means an audio recording or audio and video recording that accurately records a custodial interrogation. "Record electronically" and "recorded electronically" have a corresponding meaning.

(3) "Law enforcement agency" means a general authority Washington law enforcement agency or limited authority Washington law enforcement agency as those terms are defined in RCW 10.93.020.

(4) "Law enforcement officer" means a general authority Washington peace officer or limited authority Washington peace officer as those terms are defined in RCW 10.93.020.

(5) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, or government; governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(6) "Place of detention" means a fixed location under the control of a law enforcement agency where individuals are questioned about alleged crimes or status offenses. The term includes a jail, police or sheriff's station, holding cell, correctional or detention facility, police vehicle, and in the case of juveniles, schools.

(7) "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.

(8) "Statement" means a communication whether oral, written, electronic, or nonverbal.

NEW SECTION. Sec. 3. ELECTRONIC RECORDING REQUIREMENT.

(1) Except as otherwise provided by sections 5 through 10 of this act, a custodial interrogation, including the giving of any required warning, advice of the rights of the individual being questioned, and the waiver of any rights by the individual, must be recorded electronically in its entirety if the interrogation subject is a juvenile or if the interrogation relates to a felony crime. A custodial interrogation at a jail, police or sheriff's station, holding cell, or correctional or detention facility must be recorded by audio and video means. A custodial interrogation at any other place of detention must be recorded by audio means at minimum.

(2) If a law enforcement officer conducts a custodial interrogation to which subsection (1) of this section applies without electronically recording it in its entirety, the officer shall prepare a written or electronic report explaining the reason for not complying with this section and summarizing the custodial interrogation process and the individual's statements.

(3) A law enforcement officer shall prepare the report required by subsection (2) of this section as soon as practicable after completing the interrogation.

(4) As soon as practicable, a law enforcement officer conducting a custodial interrogation outside a place of detention shall prepare a written or electronic report explaining the decision to interrogate outside a place of detention and summarizing the custodial interrogation process and the individual's statements made outside a place of detention.

(5) This section does not apply to a spontaneous statement made outside the course of a custodial interrogation or a statement made in response to a question asked routinely during the processing of the arrest of an individual.

NEW SECTION. Sec. 4. CONSENT NOT REQUIRED—NOTICE.

Notwithstanding RCW 9.73.030 and 9.73.090, a law enforcement officer conducting a custodial interrogation is not required to obtain consent to electronic recording from the individual being interrogated, but must inform the individual that an electronic recording is being made of the interrogation. This chapter does not permit a law enforcement officer or a law enforcement agency to record a private communication between an individual and the individual's lawyer.

NEW SECTION. Sec. 5. EXCEPTION FOR EXIGENT CIRCUMSTANCES. A custodial interrogation to which section 3 of this act otherwise applies need not be recorded electronically if recording is not feasible because of exigent circumstances. The law enforcement officer conducting the interrogation shall record electronically an explanation of the exigent circumstances before conducting the interrogation, if feasible, or as soon as practicable after the interrogation is completed.

NEW SECTION. Sec. 6. EXCEPTION FOR INDIVIDUAL'S REFUSAL TO BE RECORDED ELECTRONICALLY. (1) A custodial interrogation to which section 3 of this act otherwise applies need not be recorded electronically if the individual to be interrogated indicates that the individual will not participate in the interrogation if it is recorded electronically. If feasible, the agreement to participate without recording must be recorded electronically.

(2) If, during a custodial interrogation to which section 3 of this act otherwise applies, the individual being interrogated indicates that the individual will not participate in further interrogation unless electronic recording ceases, the remainder of the custodial interrogation need not be recorded electronically. If feasible, the individual's agreement to participate without further recording must be recorded electronically.

(3) A law enforcement officer, with intent to avoid the requirement of electronic recording in section 3 of this act, may not encourage an individual to request that a recording not be made.

NEW SECTION. Sec. 7. EXCEPTION FOR INTERROGATION CONDUCTED BY OTHER JURISDICTION. If a custodial interrogation occurs in another state in compliance with that state's law or is conducted by a federal law enforcement agency in compliance with federal law, the interrogation need not be recorded electronically unless the interrogation is conducted with intent to avoid the requirement of electronic recording in section 3 of this act.

NEW SECTION. Sec. 8. EXCEPTION BASED ON BELIEF RECORDING NOT REQUIRED. (1) A custodial interrogation to which section 3 of this act otherwise applies need not be recorded electronically if the interrogation occurs when no law enforcement officer conducting the interrogation has knowledge of facts and circumstances that would lead an officer reasonably to believe that the individual being interrogated may have committed an act for which section 3 of this act requires that a custodial interrogation be recorded electronically.

(2) If, during a custodial interrogation under subsection (1) of this section, the individual being interrogated reveals facts and circumstances giving a law enforcement officer conducting the interrogation reason to believe that an act has been committed for which section 3 of this act requires that a custodial interrogation be recorded electronically, continued custodial interrogation concerning that act must be recorded electronically, if feasible.

NEW SECTION. Sec. 9. EXCEPTION FOR SAFETY OF INDIVIDUAL OR PROTECTION OF IDENTITY. A custodial interrogation to which section 3 of this act otherwise applies need not be recorded electronically if a law enforcement officer conducting the interrogation or the officer's superior reasonably believes that electronic recording would disclose the identity of a

confidential informant or jeopardize the safety of an officer, the individual being interrogated, or another individual. If feasible and consistent with the safety of a confidential informant, an explanation of the basis for the belief that electronic recording would disclose the informant's identity must be recorded electronically at the time of the interrogation. If contemporaneous recording of the basis for the belief is not feasible, the recording must be made as soon as practicable after the interrogation is completed.

NEW SECTION. Sec. 10. EXCEPTION FOR EQUIPMENT MALFUNCTION. (1) All or part of a custodial interrogation to which section 3 of this act otherwise applies need not be recorded electronically to the extent that recording is not feasible because the available electronic recording equipment fails, despite reasonable maintenance of the equipment, and timely repair or replacement is not feasible.

(2) If both audio and video recording of a custodial interrogation are otherwise required by section 3 of this act, recording may be by audio alone if a technical problem in the video recording equipment prevents video recording, despite reasonable maintenance of the equipment, and timely repair or replacement is not feasible.

(3) If both audio and video recording of a custodial interrogation are otherwise required by section 3 of this act, recording may be by video alone if a technical problem in the audio recording equipment prevents audio recording, despite reasonable maintenance of the equipment, and timely repair or replacement is not feasible.

NEW SECTION. Sec. 11. BURDEN OF PERSUASION. If the prosecution relies on an exception in sections 5 through 10 of this act to justify a failure to record electronically a custodial interrogation, the prosecution must prove by a preponderance of the evidence that the exception applies.

NEW SECTION. Sec. 12. NOTICE OF INTENT TO INTRODUCE UNRECORDED STATEMENT. If the prosecution intends to introduce in its case in chief a statement made during a custodial interrogation to which section 3 of this act applies which was not recorded electronically, the prosecution, not later than the time specified by the local rules governing discovery, shall serve the defendant with written notice of that intent and of any exception on which the prosecution intends to rely.

NEW SECTION. Sec. 13. PROCEDURAL REMEDIES. (1) Unless the court finds that an exception in sections 5 through 10 of this act applies, the court shall consider the failure to record electronically all or part of a custodial interrogation to which section 3 of this act applies in determining whether a statement made during the interrogation is admissible, including whether it was voluntarily made.

(2) If the court admits into evidence a statement made during a custodial interrogation that was not recorded electronically in compliance with section 3 of this act, the court shall afford the defendant the opportunity to present to the jury the fact that the statement was not recorded electronically in compliance with section 3 of this act.

NEW SECTION. Sec. 14. HANDLING AND PRESERVING ELECTRONIC RECORDING. Each law enforcement agency in this state shall establish and enforce procedures to ensure that the electronic recording of all or

part of a custodial interrogation is identified, accessible, and preserved throughout the length of any resulting sentence, including any period of community custody extending through final discharge.

NEW SECTION. Sec. 15. POLICIES AND PROCEDURES RELATING TO ELECTRONIC RECORDING. (1) Each law enforcement agency that is a governmental entity of this state shall adopt and enforce policies and procedures to implement this chapter.

(2) The policies and procedures adopted under subsection (1) of this section must address the following topics:

- (a) How an electronic recording of a custodial interrogation must be made;
- (b) The collection and review of electronic recordings, or the absence thereof, by supervisors in each law enforcement agency;
- (c) The assignment of supervisory responsibilities and a chain of command to promote internal accountability;
- (d) A process for explaining noncompliance with procedures and imposing administrative sanctions for a failure to comply that is not justified;
- (e) A supervisory system expressly imposing on individuals in specific positions a duty to ensure adequate staffing, education, training, and material resources to implement this chapter; and
- (f) A process for preserving the chain of custody of an electronic recording.

(3) The policies and procedures adopted under subsection (2)(a) of this section for video recording must contain standards for the angle, focus, and field of vision of a recording device which reasonably promote accurate recording of a custodial interrogation at a place of detention and reliable assessment of its accuracy and completeness.

NEW SECTION. Sec. 16. LIMITATION OF LIABILITY. (1) A law enforcement agency that is a governmental entity in this state which has implemented procedures reasonably designed to enforce the rules adopted pursuant to section 15 of this act and ensure compliance with this chapter is not subject to civil liability for damages arising from a violation of this chapter.

(2) This chapter does not create a right of action against a law enforcement officer.

NEW SECTION. Sec. 17. SELF-AUTHENTICATION. (1) In any pretrial or posttrial proceeding, an electronic recording of a custodial interrogation is self-authenticating if it is accompanied by a certificate of authenticity sworn under oath or affirmation by an appropriate law enforcement officer.

(2) This chapter does not limit the right of an individual to challenge the authenticity of an electronic recording of a custodial interrogation under law of this state other than this chapter.

NEW SECTION. Sec. 18. NO RIGHT TO ELECTRONIC RECORDING OR TRANSCRIPT. (1) This chapter does not create a right of an individual to require a custodial interrogation to be recorded electronically.

(2) This chapter does not require preparation of a transcript of an electronic recording of a custodial interrogation.

NEW SECTION. Sec. 19. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. Sec. 20. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Sec. 21. RCW 9.73.030 and 1986 c 38 s 1 and 1985 c 260 s 2 are each reenacted and amended to read as follows:

(1) Except as otherwise provided in this chapter, it shall be unlawful for any individual, partnership, corporation, association, or the state of Washington, its agencies, and political subdivisions to intercept, or record any:

(a) Private communication transmitted by telephone, telegraph, radio, or other device between two or more individuals between points within or without the state by any device electronic or otherwise designed to record and/or transmit said communication regardless how such device is powered or actuated, without first obtaining the consent of all the participants in the communication;

(b) Private conversation, by any device electronic or otherwise designed to record or transmit such conversation regardless how the device is powered or actuated without first obtaining the consent of all the persons engaged in the conversation.

(2) Notwithstanding subsection (1) of this section, wire communications or conversations (a) of an emergency nature, such as the reporting of a fire, medical emergency, crime, or disaster, or (b) which convey threats of extortion, blackmail, bodily harm, or other unlawful requests or demands, or (c) which occur anonymously or repeatedly or at an extremely inconvenient hour, or (d) which relate to communications by a hostage holder or barricaded person as defined in RCW 70.85.100, whether or not conversation ensues, may be recorded with the consent of one party to the conversation.

(3) Where consent by all parties is needed pursuant to this chapter, consent shall be considered obtained whenever one party has announced to all other parties engaged in the communication or conversation, in any reasonably effective manner, that such communication or conversation is about to be recorded or transmitted: PROVIDED, That if the conversation is to be recorded that said announcement shall also be recorded.

(4) An employee of any regularly published newspaper, magazine, wire service, radio station, or television station acting in the course of bona fide news gathering duties on a full-time or contractual or part-time basis, shall be deemed to have consent to record and divulge communications or conversations otherwise prohibited by this chapter if the consent is expressly given or if the recording or transmitting device is readily apparent or obvious to the speakers. Withdrawal of the consent after the communication has been made shall not prohibit any such employee of a newspaper, magazine, wire service, or radio or television station from divulging the communication or conversation.

(5) This section does not apply to the recording of custodial interrogations pursuant to section 4 of this act.

NEW SECTION. Sec. 22. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the

act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 23. CODIFICATION. Sections 1 through 20 of this act constitute a new chapter in Title 10 RCW.

NEW SECTION. Sec. 24. EFFECTIVE DATE. Sections 1 through 20 of this act take effect January 1, 2022.

Passed by the House April 14, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

CHAPTER 330

[Engrossed Senate Bill 5135]

UNLAWFULLY SUMMONING A POLICE OFFICER

AN ACT Relating to unlawfully summoning a police officer; and adding a new section to chapter 4.24 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 4.24 RCW to read as follows:

(1) A person may bring a civil action for damages against any person who knowingly causes a law enforcement officer to arrive at a location to contact another person with the intent to:

(a) Infringe on the other person's rights under the Washington state or United States Constitutions;

(b) Unlawfully discriminate against the other person;

(c) Cause the other person to feel harassed, humiliated, or embarrassed;

(d) Cause the other person to be expelled from a place in which the other person is lawfully located; or

(e) Damage the other person's:

(i) Reputation or standing in the community; or

(ii) Financial, economic, consumer, or business prospects or interests.

(2) A person shall not be held liable under subsection (1) of this section if the person acted in good faith in causing a law enforcement officer to arrive.

(3) Upon prevailing in an action under this section, the plaintiff may recover:

(a) The greater of:

(i) Economic and noneconomic damages; or

(ii) \$250 against each defendant found liable under this section; and

(b) Punitive damages.

(4) The court may award reasonable attorneys' fees and costs to the prevailing plaintiff in an action under this section.

(5) A civil action under this section:

(a) May be maintained in a court of limited jurisdiction if the total damages claimed do not exceed the statutory limit for damages that the court of limited jurisdiction may award; and

(b) Does not affect a right or remedy available under any other law of this state.

Passed by the Senate March 8, 2021.

Passed by the House April 9, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 19, 2021.

CHAPTER 331

[Engrossed Substitute Senate Bill 5084]

GENERAL OBLIGATION BONDS—CAPITAL AND OPERATING BUDGETS

AN ACT Relating to state general obligation bonds and related accounts; adding a new chapter to Title 43 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. For the purpose of providing funds to finance the projects described and authorized by the legislature in the omnibus capital and operating appropriations acts for the 2019-2021 and 2021-2023 fiscal biennia, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of \$3,971,290,793, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. Sec. 2. (1) The proceeds from the sale of bonds authorized in section 1 of this act shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(a) \$3,800,722,793 to remain in the state building construction account created by RCW 43.83.020;

(b) \$170,568,000 to the state taxable building construction account. All receipts from taxable bonds issued are to be deposited into the account. If the state finance committee deems it necessary or advantageous to issue more than the amount specified in this subsection (1)(b) as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds or in order to reduce the total financing costs for bonds issued, the proceeds of such additional taxable bonds shall be transferred to the state taxable building construction account in lieu of any transfer otherwise provided by this section. If the state finance committee determines that a portion of the amount specified in this subsection (1)(b) as taxable bonds may be issued as nontaxable bonds in compliance with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, then such bond proceeds shall be transferred to the state building construction account in lieu of the transfer to the state taxable building construction account otherwise provided by this subsection (1)(b). The state treasurer shall submit written notice to the director of financial management if it is determined that any such additional transfer to the state taxable building construction account is necessary or that a transfer from the state taxable building construction account to the state building construction account may be made. Moneys in the account may be spent only after appropriation.

(2)(a) The state treasurer shall transfer bond proceeds deposited in the state building construction account into the outdoor recreation account created by RCW 79A.25.060, the habitat conservation account created by RCW 79A.15.020, the farm and forest account created by RCW 79A.15.130, and the Ruth Lecocq Kagi early learning facilities development account created by RCW 43.31.569, at various times and in various amounts necessary to support authorized expenditures from those accounts.

(b) The state treasurer shall transfer bond proceeds deposited in the state taxable building construction account into the Ruth Lecocq Kagi early learning facilities revolving account created by RCW 43.31.569 at various times and in various amounts necessary to support authorized expenditures from that account.

(3) These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation.

NEW SECTION. Sec. 3. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in section 1 of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in section 1 of this act.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of section 2 (1) and (2) of this act the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. Sec. 4. (1) Bonds issued under section 1 of this act shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

NEW SECTION. Sec. 5. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 1 of this act, and sections 2 and 3 of this act shall not be deemed to provide an exclusive method for the payment.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 8.** This act 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 April 23, 2021.

Passed by the House April 24, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 19, 2021.

CHAPTER 332

[Substitute House Bill 1080]

CAPITAL BUDGET

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 43.19.501, 28B.15.210, 28B.15.310, 28B.20.725, 28B.30.750, 28B.35.370, 28B.50.360, 43.185.050, 43.88D.010, 43.155.150, 43.330.520, 43.155.160, 43.63A.750, 28B.77.070, and 39.35D.030; amending 2019 c 413 ss 1007, 1010, 1014, 1023, 1032, 1056, 1058, 1060, 1012, 1064, 1066, 1061, 1074, 1076, 1079, 1077, 4002, 4004, 1097, 1098, 2088, 2089, 3020, 3091, 3278, 3301, 3217, 3235, 5011, 5020, and 5047, and 2020 c 356 ss 6002, 1003, 1006, 1011, 1013, 1009, 1022, 1027, 3025, 3062, 5002, and 5011 (uncodified); reenacting and amending RCW 90.94.090, 43.155.050, and 28A.320.330; creating new sections; repealing 2019 c 413 ss 1004, 1107, 1108, 1109, and 2034 (uncodified); making appropriations; providing a contingent 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.** (1) A capital budget is hereby adopted and, subject to the provisions set forth in this act, the several dollar amounts hereinafter specified, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for capital projects during the period beginning with the effective date of this act and ending June 30, 2023, out of the several funds specified in this act.

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

(a) "Fiscal year 2022" or "FY 2022" means the period beginning July 1, 2021, and ending June 30, 2022.

(b) "Fiscal year 2023" or "FY 2023" means the period beginning July 1, 2022, and ending June 30, 2023.

(c) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(d) "Provided solely" means the specified amount may be spent only for the specified purpose.

(3) Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose that is not expended subject to the specified conditions and limitations to fulfill the specified purpose shall lapse.

(4) The amounts shown under the headings "Prior Biennia," "Future Biennia," and "Total" in this act are for informational purposes only and do not constitute legislative approval of these amounts. "Prior biennia" typically refers to the immediate prior biennium for reappropriations, but may refer to multiple biennia in the case of specific projects. A "future biennia" amount is an estimate of what may be appropriated for the project or program in the 2023-2025 biennium and the following three biennia; an amount of zero does not

necessarily constitute legislative intent to not provide funding for the project or program in the future.

(5) "Reappropriations" in this act are appropriations and, unless the context clearly provides otherwise, are subject to the relevant conditions and limitations applicable to appropriations. Reappropriations shall be limited to the unexpended balances remaining on June 30, 2021, from the 2019-2021 biennial appropriations for each project.

**PART 1
GENERAL GOVERNMENT**

NEW SECTION. Sec. 1001. FOR THE ADMINISTRATOR FOR THE COURTS

Trial Court Security Improvements (91000001)

Appropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$750,000

NEW SECTION. Sec. 1002. FOR THE COURT OF APPEALS

Division III Roof Replacement and Maintenance (30000003)

Reappropriation:

State Building Construction Account—State	\$27,000
Prior Biennia (Expenditures)	\$235,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$262,000

NEW SECTION. Sec. 1003. FOR THE OFFICE OF THE SECRETARY OF STATE

Library-Archives Building (30000033)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation is subject to the provisions of section 1003, chapter 2, Laws of 2018.

(2) The secretary of state must enter into a financial contract for up to \$119,000,000, pursuant to section 7002(3) of this act.

Reappropriation:

State Building Construction Account—State	\$4,078,000
Prior Biennia (Expenditures)	\$1,222,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,300,000

NEW SECTION. Sec. 1004. FOR THE OFFICE OF THE SECRETARY OF STATE

State Archives Minor Works Projects (30000042)

Reappropriation:

State Building Construction Account—State	\$471,000
Prior Biennia (Expenditures)	\$102,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$573,000

NEW SECTION. Sec. 1005. FOR THE OFFICE OF THE SECRETARY OF STATE

WTBBL Security Improvements (30000043)

Appropriation:

Washington State Library Operations Account—	
Federal	\$510,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$510,000

NEW SECTION. Sec. 1006. FOR THE OFFICE OF THE SECRETARY OF STATE

Archives Minor Works (30000044)

Appropriation:

State Building Construction Account—State	\$325,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$325,000

NEW SECTION. Sec. 1007. FOR THE DEPARTMENT OF COMMERCE

Community Economic Revitalization Board (30000097)

Reappropriation:

Public Facility Construction Loan Revolving	
Account—State	\$8,020,000
Prior Biennia (Expenditures)	\$10,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$18,020,000

NEW SECTION. Sec. 1008. FOR THE DEPARTMENT OF COMMERCE

Public Works Assistance Account Program 2013 Loan List (30000184)

Reappropriation:

Public Works Assistance Account—State	\$1,523,000
Prior Biennia (Expenditures)	\$32,378,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$33,901,000

NEW SECTION. Sec. 1009. FOR THE DEPARTMENT OF COMMERCE

Clean Energy and Energy Freedom Program (30000726)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 6003, chapter 4, Laws of 2017 3rd sp. sess.

Reappropriation:

State Building Construction Account—State	\$6,302,000
State Taxable Building Construction Account—	
State	\$2,997,000
Subtotal Reappropriation	\$9,299,000
Prior Biennia (Expenditures)	\$31,101,000
Future Biennia (Projected Costs)	\$0

TOTAL \$40,400,000

NEW SECTION. Sec. 1010. FOR THE DEPARTMENT OF COMMERCE

Building Communities Fund Program (30000803)

Reappropriation:

State Building Construction Account—State \$1,497,000

Prior Biennia (Expenditures) \$18,168,000

Future Biennia (Projected Costs) \$0

TOTAL \$19,665,000

NEW SECTION. Sec. 1011. FOR THE DEPARTMENT OF COMMERCE

Housing Trust Fund Appropriation (30000833)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1005, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

State Taxable Building Construction Account—

State \$1,492,000

Prior Biennia (Expenditures) \$78,508,000

Future Biennia (Projected Costs) \$0

TOTAL \$80,000,000

NEW SECTION. Sec. 1012. FOR THE DEPARTMENT OF COMMERCE

2015-17 Community Economic Revitalization Board Program (30000834)

Reappropriation:

Public Facility Construction Loan Revolving

Account—State \$3,000,000

Prior Biennia (Expenditures) \$7,600,000

Future Biennia (Projected Costs) \$0

TOTAL \$10,600,000

NEW SECTION. Sec. 1013. FOR THE DEPARTMENT OF COMMERCE

Ultra-Efficient Affordable Housing Demonstration (30000836)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1006, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

Washington Housing Trust Account—State \$600,000

Prior Biennia (Expenditures) \$1,900,000

Future Biennia (Projected Costs) \$0

TOTAL \$2,500,000

NEW SECTION. Sec. 1014. FOR THE DEPARTMENT OF COMMERCE

2017 Local and Community Projects (30000846)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 6004, chapter 4, Laws of 2017 3rd sp. sess.

Reappropriation:

State Building Construction Account—State	\$1,750,000
Prior Biennia (Expenditures)	\$9,128,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,878,000

NEW SECTION. Sec. 1015. FOR THE DEPARTMENT OF COMMERCE

2017-19 Housing Trust Fund Program (30000872)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 6001, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$5,716,000
State Taxable Building Construction Account— State	\$24,810,000
Washington Housing Trust Account—State	\$1,578,000
Subtotal Reappropriation	\$32,104,000
Prior Biennia (Expenditures)	\$79,386,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$111,490,000

NEW SECTION. Sec. 1016. FOR THE DEPARTMENT OF COMMERCE

Economic Opportunity Grants (30000873)

Reappropriation:

Rural Washington Loan Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$5,750,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,750,000

NEW SECTION. Sec. 1017. FOR THE DEPARTMENT OF COMMERCE

2017-19 Youth Recreational Facilities Grant Program (30000875)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1008, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$3,155,000
Prior Biennia (Expenditures)	\$3,752,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,907,000

NEW SECTION. Sec. 1018. FOR THE DEPARTMENT OF COMMERCE

2017-19 Building for the Arts Grant Program (30000877)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1009, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$11,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,000,000

NEW SECTION. Sec. 1019. FOR THE DEPARTMENT OF COMMERCE

Public Works Assistance Account Construction Loans (30000878)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1019, chapter 413, Laws of 2019.

Reappropriation:

State Taxable Building Construction Account—	
State	\$38,000,000
Prior Biennia (Expenditures)	\$39,220,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$77,220,000

NEW SECTION. Sec. 1020. FOR THE DEPARTMENT OF COMMERCE

Weatherization Plus Health Matchmaker Program (30000879)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1014, chapter 298, Laws of 2018.

Reappropriation:

State Taxable Building Construction Account—	
State	\$376,000
Prior Biennia (Expenditures)	\$23,124,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$23,500,000

NEW SECTION. Sec. 1021. FOR THE DEPARTMENT OF COMMERCE

Clean Energy Funds 3 (30000881)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 6006, chapter 413, Laws of 2019.

Reappropriation:

Energy Efficiency Account—State	\$5,362,000
State Building Construction Account—State	\$29,402,000
Subtotal Reappropriation	\$34,764,000
Prior Biennia (Expenditures)	\$11,336,000
Future Biennia (Projected Costs)	\$0

TOTAL \$46,100,000

NEW SECTION. Sec. 1022. FOR THE DEPARTMENT OF COMMERCE

Energy Efficiency and Solar Grants (30000882)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 6007, chapter 413, Laws of 2019.

Reappropriation:

Energy Efficiency Account—State	\$4,448,000
State Building Construction Account—State	\$3,279,000
Subtotal Reappropriation	\$7,727,000
Prior Biennia (Expenditures)	\$3,273,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,000,000

NEW SECTION. Sec. 1023. FOR THE DEPARTMENT OF COMMERCE

2017-19 Building Communities Fund Grant (30000883)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1015, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$1,700,000
Prior Biennia (Expenditures)	\$26,200,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$27,900,000

NEW SECTION. Sec. 1024. FOR THE DEPARTMENT OF COMMERCE

2018 Local and Community Projects (40000005)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 6002, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$42,896,000
Prior Biennia (Expenditures)	\$87,441,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$130,337,000

NEW SECTION. Sec. 1025. FOR THE DEPARTMENT OF COMMERCE

Early Learning Facility Grants (40000006)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 1005, chapter 298, Laws of 2018.

Reappropriation:

Early Learning Facilities Development Account—	
State	\$999,000
Early Learning Facilities Revolving Account—	
State	\$3,000,000
Subtotal Reappropriation	\$3,999,000
Prior Biennia (Expenditures)	\$11,501,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,500,000

NEW SECTION. Sec. 1026. FOR THE DEPARTMENT OF COMMERCE

Dental Clinic Capacity Grants (40000007)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1002, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$13,534,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,534,000

NEW SECTION. Sec. 1027. FOR THE DEPARTMENT OF COMMERCE

PWAA Preconstruction and Emergency Loan Programs (40000009)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1027, chapter 413, Laws of 2019.

Reappropriation:

State Taxable Building Construction Account—	
State	\$9,000,000
Prior Biennia (Expenditures)	\$10,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$19,000,000

NEW SECTION. Sec. 1028. FOR THE DEPARTMENT OF COMMERCE

Behavioral Health Community Capacity (40000018)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 6004, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$30,000,000
Prior Biennia (Expenditures)	\$53,099,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$83,099,000

NEW SECTION. Sec. 1029. FOR THE DEPARTMENT OF COMMERCE

2019-21 Housing Trust Fund Program (40000036)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 1003, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$22,388,000
State Taxable Building Construction Account— State	\$116,348,000
Subtotal Reappropriation	\$138,736,000
Prior Biennia (Expenditures)	\$34,014,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$172,750,000

NEW SECTION. Sec. 1030. FOR THE DEPARTMENT OF COMMERCE

Public Works Board (40000038)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1020, chapter 356, Laws of 2020.

Reappropriation:

Public Works Assistance Account—State	\$61,800,000
Prior Biennia (Expenditures)	\$31,778,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$93,578,000

NEW SECTION. Sec. 1031. FOR THE DEPARTMENT OF COMMERCE

2019-21 Building for the Arts Grant Program (40000039)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1032, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$3,724,000
Prior Biennia (Expenditures)	\$6,600,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,324,000

NEW SECTION. Sec. 1032. FOR THE DEPARTMENT OF COMMERCE

2019-21 Community Economic Revitalization Board (40000040)

Reappropriation:

Public Facility Construction Loan Revolving Account—State	\$18,600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$18,600,000

NEW SECTION. Sec. 1033. FOR THE DEPARTMENT OF COMMERCE

2019-21 Youth Recreational Facilities Grant Program (40000041)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1034, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$4,238,000
Prior Biennia (Expenditures)	\$1,642,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,880,000

NEW SECTION. Sec. 1034. FOR THE DEPARTMENT OF COMMERCE

Clean Energy Transition 4 (40000042)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 1005, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$20,881,000
State Taxable Building Construction Account— State	\$11,249,000
Subtotal Reappropriation	\$32,130,000
Prior Biennia (Expenditures)	\$470,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$32,600,000

NEW SECTION. Sec. 1035. FOR THE DEPARTMENT OF COMMERCE

2019-21 Building Communities Fund Program (40000043)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1036, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$20,000,000
Prior Biennia (Expenditures)	\$16,785,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$36,785,000

NEW SECTION. Sec. 1036. FOR THE DEPARTMENT OF COMMERCE

2019-21 Early Learning Facilities (40000044)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 1006, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$8,000,000
---	-------------

Early Learning Facilities Revolving Account—	
State	\$20,000,000
Early Learning Facilities Development Account—	
State	\$1,500,000
Subtotal Reappropriation	\$29,500,000
Prior Biennia (Expenditures)	\$5,520,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$35,020,000

NEW SECTION. Sec. 1037. FOR THE DEPARTMENT OF COMMERCE

2019-21 Weatherization (40000048)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1038, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$11,970,000
Prior Biennia (Expenditures)	\$8,030,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$20,000,000

NEW SECTION. Sec. 1038. FOR THE DEPARTMENT OF COMMERCE

2019-21 Energy Efficiency and Solar Grants Program (40000049)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1023, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$12,362,000
Prior Biennia (Expenditures)	\$138,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,500,000

NEW SECTION. Sec. 1039. FOR THE DEPARTMENT OF COMMERCE

Rural Rehabilitation Loan Program (40000052)

Reappropriation:

State Taxable Building Construction Account—	
State	\$4,986,000
Prior Biennia (Expenditures)	\$14,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 1040. FOR THE DEPARTMENT OF COMMERCE

2019-21 Behavioral Health Capacity Grants (40000114)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1010, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$90,000,000
Prior Biennia (Expenditures)	\$36,151,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$126,151,000

NEW SECTION. Sec. 1041. FOR THE DEPARTMENT OF COMMERCE

2020 Local and Community Projects (40000116)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1011, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$94,196,000
Prior Biennia (Expenditures)	\$73,011,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$167,207,000

NEW SECTION. Sec. 1042. FOR THE DEPARTMENT OF COMMERCE

Washington Broadband Program (40000117)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1012, chapter 356, Laws of 2020.

Reappropriation:

Statewide Broadband Account—State	\$20,500,000
Prior Biennia (Expenditures)	\$1,050,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$21,550,000

NEW SECTION. Sec. 1043. FOR THE DEPARTMENT OF COMMERCE

2019-21 Behavioral Rehabilitation Services Capacity Grants (40000124)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1044, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$1,975,000
Prior Biennia (Expenditures)	\$25,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 1044. FOR THE DEPARTMENT OF COMMERCE

Housing for Farmworkers (91000457)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1065, chapter 19, Laws of 2013 2nd sp. sess.

Reappropriation:

State Taxable Building Construction Account—	
State	\$103,000
Prior Biennia (Expenditures)	\$26,947,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$27,050,000

NEW SECTION. Sec. 1045. FOR THE DEPARTMENT OF COMMERCE

Clean Energy and Energy Freedom Program (91000582)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1074, chapter 19, Laws of 2013 2nd sp. sess.

Reappropriation:

State Building Construction Account—State	\$625,000
Prior Biennia (Expenditures)	\$35,369,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$35,994,000

NEW SECTION. Sec. 1046. FOR THE DEPARTMENT OF COMMERCE

CERB Administered Broadband Infrastructure (91000943)

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation and reappropriations are subject to the provisions of section 1008, chapter 298, Laws of 2018.

(2) The appropriations must be used for projects that use a technology-neutral approach in order to expand access at the lowest cost to the most unserved or underserved residents.

Reappropriation:

Public Works Assistance Account—State	\$3,450,000
State Taxable Building Construction Account—	
State	\$6,600,000
Subtotal Reappropriation	\$10,050,000

Appropriation:

Coronavirus Capital Projects Account—Federal	\$25,000,000
Prior Biennia (Expenditures)	\$3,400,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$38,450,000

NEW SECTION. Sec. 1047. FOR THE DEPARTMENT OF COMMERCE

2019 Local and Community Projects (91001157)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1017, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$9,000,000
---	-------------

Prior Biennia (Expenditures)	\$31,530,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$40,530,000

NEW SECTION. Sec. 1048. FOR THE DEPARTMENT OF COMMERCE

Library Capital Improvement Program (91001239)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1053, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$6,000,000
Prior Biennia (Expenditures)	\$6,838,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,838,000

NEW SECTION. Sec. 1049. FOR THE DEPARTMENT OF COMMERCE

Dental Capacity Grants (91001306)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1056, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$903,000
Prior Biennia (Expenditures)	\$675,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,578,000

NEW SECTION. Sec. 1050. FOR THE DEPARTMENT OF COMMERCE

Buy Clean, Buy Fair Washington Pilot (91001679)

The appropriation in this section is subject to the following conditions and limitations:

(1) By June 15, 2021, the department must coordinate with the following projects: (a) University of Washington College of Engineering Interdisciplinary Education and Research Center (30000492); and (b) University of Washington UW Tacoma (20102002). The awarding authorities for these projects must collaborate with the University of Washington college of built environments to test proposed methods and availability of environmental product declarations and working condition information, as defined in subsection (3) of this section.

(2) The awarding authority shall require the successful bidder for a contract to submit the following information for at least 90 percent of the cost of each covered product used in the project:

- (a) Product quantity;
- (b) A current environmental product declaration;
- (c) Health certifications, if any, completed for the product;
- (d) Manufacturer name and location, including state or province and country;

(e) Measures taken, if any, to promote the international labor organization's four fundamental principles and rights at work within the manufacturer supply chain;

(f) Names and locations, including state or province and country, of the actual production facilities; and

(g) Working condition information for the actual production facilities for all employees.

(3) For the purposes of this section:

(a) "Actual production facilities" means the final manufacturing facility and the facilities at which production processes occur that contribute to 80 percent or more of the product's cradle-to-gate global warming potential, as reflected in the environmental product declaration.

(b) "Awarding authority" means the University of Washington capital planning and portfolio management.

(c) "Covered product" means structural concrete products, reinforcing steel products, structural steel products, and engineered wood products.

(d) "Environmental product declaration" means a supply chain specific type III environmental product declaration as defined by the international organization for standardization standard 14025 or similarly robust life-cycle assessment methods that have uniform standards in data collection consistent with the international organization for standardization standard 14025, industry acceptance, and integrity.

(e) "Health certification" means a health product declaration, as reported in accordance with the health product declaration open standard, and any product certification that includes health-related criteria.

(f) "International labor organization's four fundamental principles and rights at work" means: Effective abolition of child labor; elimination of discrimination in respect of employment and occupation; elimination of all forms of forced or compulsory labor; and freedom of association and the effective recognition of the right to collective bargaining.

(g) "Working condition information" means the:

(i) Average number of employees by employment type: Full time, part time, and temporary;

(ii) Average hourly wage, including all nondiscretionary wages and bonuses, by quartiles;

(iii) Hours worked by weekly hour bands: One-19 hours, 20-29 hours, 30-39 hours, 40-49 hours, 50-59 hours, and 60 or more hours;

(iv) Maximum number of hours that an employee can be required to work per week; and

(v) Percent of employees covered by a collective bargaining agreement.

(4) The department shall include the information collected in this section in their report to the legislature, the case study analysis of environmental and labor reporting requirements for state funded construction projects required in section 129, chapter . . . , Laws of 2021 (House Bill No. 1094).

Appropriation:

State Building Construction Account—State	\$150,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$150,000

NEW SECTION. Sec. 1051. FOR THE DEPARTMENT OF COMMERCE

Projects for Jobs & Economic Development (92000151)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 1058, chapter 413, Laws of 2019.

Reappropriation:

Public Facility Construction Loan Revolving Account—State	\$97,000
State Building Construction Account—State	\$900,000
Subtotal Reappropriation	\$997,000
Prior Biennia (Expenditures)	\$35,640,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$36,637,000

NEW SECTION. Sec. 1052. FOR THE DEPARTMENT OF COMMERCE

Projects that Strengthen Communities & Quality of Life (92000230)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 6006, chapter 3, Laws of 2015 3rd sp. sess.

Reappropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$31,088,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$32,088,000

NEW SECTION. Sec. 1053. FOR THE DEPARTMENT OF COMMERCE

Local & Community Projects 2016 (92000369)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 6009, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$11,000,000
Prior Biennia (Expenditures)	\$117,919,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$128,919,000

NEW SECTION. Sec. 1054. FOR THE DEPARTMENT OF COMMERCE

Disaster Emergency Response (92000377)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1009, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

State Building Construction Account—State	\$24,000
---	----------

Prior Biennia (Expenditures)	\$1,785,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,809,000

NEW SECTION. Sec. 1055. FOR THE DEPARTMENT OF COMMERCE

Seattle Vocational Institute (40000136)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 1009, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$1,105,000
State Taxable Building Construction Account— State	\$175,000
Subtotal Reappropriation	\$1,280,000
Prior Biennia (Expenditures)	\$20,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,300,000

NEW SECTION. Sec. 1056. FOR THE DEPARTMENT OF COMMERCE

2021-23 Youth Recreational Facilities Grant Program (40000139)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is subject to the provisions of RCW 43.63A.135.

(2) Except as directed otherwise prior to the effective date of this section, the department may not expend the appropriation in this section unless and until the nonstate share of project costs have been either expended or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by this appropriation. This requirement does not apply to projects where a share of the appropriation is for design costs only.

(3) The appropriation is provided solely for the following list of projects:

Plus Delta After School Studios	\$16,000
Boys & Girls Club of Lewis County	\$14,000
Multicultural Child and Family Hope Center	\$250,000
Coyote Central	\$455,000
MLK Family Arts Mentoring & Enrichment Community Center	\$15,000
Bellevue Boys & Girls Club	\$156,000
Northwest's Child	\$16,000
Bainbridge Island Child Care Centers	\$200,000
Animals as Natural Therapy	\$33,000
Seattle JazzED	\$1,837,000
Starfire Sports	\$35,000
Whitewater Aquatics Management	\$62,000
Boys & Girls Club of Spokane County	\$600,000

Appropriation:

State Building Construction Account—State	\$3,689,000
---	-------------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,689,000

NEW SECTION. Sec. 1057. FOR THE DEPARTMENT OF COMMERCE

2021-23 Early Learning Facilities-School Districts Grant (40000140)

The appropriation in this section is subject to the following conditions and limitations: \$4,719,000 of the Ruth Lecocq Kagi early learning facilities development account—state appropriation is provided solely for the following list of early learning facility projects in the following amounts:

Selah Robert Lince ELC and Kindergarten—Phase 2	\$856,000
Pasco School District Lakeview ELC	\$200,000
Bethel Early Learning Center	\$856,000
Walla Walla Center for Children and Families	\$55,000
Bellingham Integrating Early Learning into New District Office	\$456,000
Evergreen Burton ECE Center: Expanding Access to Quality Care	\$667,000
Mount Baker Early Childhood Expansion	\$434,000
Soap Lake Elementary School Conversion to Early Learning Facility	\$856,000
Ridgefield ELC—Phase 2	\$339,000

Appropriation:

Early Learning Facilities Development Account—State	\$4,719,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,719,000

NEW SECTION. Sec. 1058. FOR THE DEPARTMENT OF COMMERCE

2021-23 Public Works Assistance Account-Construction (40000141)

Appropriation:

Public Works Assistance Account—State	\$129,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$129,000,000

NEW SECTION. Sec. 1059. FOR THE DEPARTMENT OF COMMERCE

2021-23 Building Communities Fund Grant Program (40000142)

The appropriation in this section is subject to the following conditions and limitations:

- (1) The appropriation is subject to the provisions of RCW 43.63A.125.
- (2) The department may not expend the appropriation in this section unless and until the nonstate share of project costs have been either expended or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by this

appropriation. This requirement does not apply to projects where a share of the appropriation is for design costs only.

(3) \$29,896,000 of the appropriation is provided solely for the following list of projects:

Reliable Enterprises	\$21,000
Sauk-Suiattle Indian Tribe	\$175,000
Chief Seattle Club	\$1,407,000
YouthCare	\$1,563,000
Community Youth Services	\$203,000
Nisqually Indian Tribe	\$3,500,000
HealthPoint	\$3,029,000
NEW Health Programs Association	\$970,000
Rainier Valley Food Bank	\$770,000
Coastal Community Action Program	\$2,990,000
NATIVE Project	\$1,438,000
Eritrean Association in Greater Seattle	\$514,000
White Center Community Development Association	\$2,700,000
Lewis County Seniors	\$300,000
Volunteers of America of Eastern Washington and Northern Idaho	\$2,500,000
Ethiopian Community in Seattle	\$745,000
Seven Acres Foundation	\$2,500,000
Sea Mar Community Health	\$1,700,000
Asian Pacific Cultural Center	\$1,539,000
Sea Mar Community Health Centers	\$1,332,000

(4) \$250,000 of the amount in this section is provided solely for the department to provide technical assistance to organizations interested in applying for the building communities fund grants.

Appropriation:

State Building Construction Account—State	\$30,146,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$30,146,000

NEW SECTION. Sec. 1060. FOR THE DEPARTMENT OF COMMERCE

2021-23 Building for the Arts Grant Program (40000143)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is subject to the provisions of RCW 43.63A.750.

(2) Except as directed otherwise prior to the effective date of this section, the department may not expend the appropriation in this section unless and until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by this appropriation. This requirement does not apply to projects where a share of the appropriation is for design costs only.

(3) The appropriation is provided solely for the following list of projects:

Port Angeles Waterfront Center dba Field Arts &

Events Hall	\$2,000,000
Path with Art	\$1,757,000
Classical 98.1	\$814,000
Hands On Children's Museum	\$1,600,000
Orcas Center	\$133,000
Village Theatre's Francis Gaudette Theatre	\$257,000
Bellevue Arts Museum Capital Improvements	243,000
Cornish College of the Arts	\$1,600,000
Roxy Bremerton Foundation	\$269,000
Pilchuck Glass School	\$135,000
Sequim City Band	\$250,000
Washington Center for the Performing Arts	\$1,464,000
Imagine Children's Museum	\$31,000
Confederated Tribes of the Chehalis Reservation	\$1,600,000
Seattle Symphony Orchestra	\$418,000
Bainbridge Performing Arts	\$1,600,000
Kirkland Arts Center	\$220,000
Village Theatre's New Technical Studio Warehouse	\$409,000
Mini Mart City Park	\$200,000
Museum of Northwest Art	\$500,000
Harlequin Productions	\$500,000

Appropriation:

State Building Construction Account—State	\$16,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$16,000,000

NEW SECTION. Sec. 1061. FOR THE DEPARTMENT OF COMMERCE

2021-23 CERB Capital Construction (40000144)

Appropriation:

Public Facility Construction Loan Revolving Account—State	\$10,000,000
State Taxable Building Construction Account—State	\$15,000,000
Subtotal Appropriation	\$25,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$25,000,000

NEW SECTION. Sec. 1062. FOR THE DEPARTMENT OF COMMERCE

2021-23 Pacific Tower Capital Improvements (40000145)

Appropriation:

State Taxable Building Construction Account—State	\$1,165,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$7,815,000
TOTAL	\$8,980,000

NEW SECTION. Sec. 1063. FOR THE DEPARTMENT OF COMMERCE

2021-23 Library Capital Improvement Program (LCIP) Grants (40000147)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for a local library capital improvement grant program for the following list of projects:

City of Colville	\$264,000
Sno-Isle Regional Inter-County Libraries (Langley)	\$700,000
Stevens County Rural Library District (Loon Lake)	\$649,000
Stevens County Rural Library District (Chewelah)	\$90,000
North Olympic Library System (Sequim)	\$2,000,000
Spokane County Library District (Spokane Valley)	\$2,000,000
Jefferson County Rural Library District (Port Hadlock)	\$285,000
Stevens County Rural Library District (Northport)	\$50,000
North Central Regional Library (Wenatchee)	\$798,000
City of Seattle	\$1,889,000
Pend Oreille County Library District (Metaline Falls)	\$40,000
Upper Skagit Library District (Concrete)	\$209,000
City of Cashmere	\$14,000
Town of Coulee City	\$760,000
Sno-Isle Regional Inter-County Libraries (Darrington)	\$250,000
Fort Vancouver Regional Library Foundation (Woodland)	\$2,000,000
City of Mount Vernon	\$2,000,000
Sno-Isle Regional Inter-County Libraries (Lake Stevens)	\$1,100,000
Camas Library Improvements (Camas)	\$515,000
Ephrata Public Library (Ephrata)	\$91,000
Lake Stevens Early Learning Library (Lake Stevens)	\$2,000,000

(2) The department must establish a competitive process to solicit proposals for and prioritize projects whose primary objective is to assist libraries operated by governmental units, as defined in RCW 27.12.010, in acquiring, constructing, repairing, or rehabilitating facilities.

(3) The department must establish a committee to develop the grant program criteria and review proposals. The committee must be composed of five members as provided in this subsection. The committee must include: (a) A representative from the department of commerce; (b) a representative from the department of archaeology and historic preservation; (c) the state librarian; (d) a representative from a library district; and (e) a representative from a municipal library.

(4) The department must conduct a statewide solicitation of project applications. The department must evaluate and rank applications in consultation with the committee established in subsection (3) of this section, using objective criteria. The ranking of projects must prioritize library district facilities listed on a local, state, or federal register of historic places and those located in distressed or rural counties. The evaluation and ranking process must also include an examination of existing assets that applicants propose to apply to projects. Grant assistance under this section may not exceed 50 percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value

of real property when acquired solely for the purpose of the project, and in-kind contributions.

(5) The department must submit a prioritized list of recommended projects to the governor and the legislature by October 1, 2022, for inclusion in the department of commerce's 2023-2025 biennial capital budget request. The list must include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. Individual grants may not exceed \$2,000,000. The total amount of recommended state funding for the projects on a biennial project list may not exceed \$10,000,000.

(6) In contracts for grants authorized under this section, the department must include provisions that require 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 must 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 on the date most close in time to the date of authorization of the grant.

(7) The department must assist grant recipients under this section to apply for applicable competitive federal grant funding and, upon receipt of any such funding, an equal amount of the state building construction account—state appropriation must be placed in unallotted status.

Appropriation:

State Building Construction Account—State	\$17,704,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$30,000,000
TOTAL	\$47,704,000

NEW SECTION. Sec. 1064. FOR THE DEPARTMENT OF COMMERCE

2021-23 Clean Energy V - Investing in Washington's Clean Energy (40000148)

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section are provided solely for projects that provide a benefit to the public through development, demonstration, and deployment of clean energy technologies that save energy and reduce energy costs, reduce harmful air emissions, or increase energy independence for the state. Priority must be given to projects that benefit vulnerable populations and overburdened communities, including tribes and communities with high environmental or energy burdens.

(2) The 2021 state energy strategy must guide the department in the design of programs under this section, using an equity and environmental justice lens for program structure and participation. To the extent practicable, the department must prioritize projects that build upon Washington's existing strengths in communities, aerospace, maritime, information and communications technology (particularly data center infrastructure, artificial intelligence and machine learning), grid modernization, advanced materials, and decarbonizing the built environment.

(3) Subject to the availability of funds, the department must reconvene an advisory committee to support involvement of a broad range of stakeholders in the design and implementation of programs implemented under this section to encourage collaboration, leverage partners, and engage communities and organizations in improving the equitable distribution of benefits from the program.

(4) In soliciting and evaluating proposals, awarding contracts, and monitoring projects under this section, the department must:

(a) Ensure that competitive processes, rather than sole source contracting processes, are used to select all projects, except as otherwise noted in this section; and

(b) Conduct due diligence activities associated with the use of public funds including, but not limited to, oversight of the project selection process, project monitoring, and ensuring that all applications and contracts fully comply with all applicable laws including disclosure and conflict of interest statutes.

(5) During project solicitation periods for grants funded with this appropriation, the department must maintain a list of applicants by grant program that scored competitively but did not receive a grant award due to lack of available funding. These applicants must be considered for funding during future grant award cycles. If the department submits a 2022 supplemental budget request for this program, the request must include a list of prioritized projects by grant type.

(6)(a) Pursuant to chapter 42.52 RCW, the ethics in public service act, the department must require a project applicant to identify in application materials any state of Washington employees or former state employees employed by the firm or on the firm's governing board during the past 24 months. Application materials must identify the individual by name, the agency previously or currently employing the individual, job title or position held, and separation date. If it is determined by the department that a conflict of interest exists, the applicant may be disqualified from further consideration for award of funding.

(b) If the department finds, after due notice and examination, that there is a violation of chapter 42.52 RCW, or any similar statute involving a grantee who received funding under this section, either in procuring or performing under the grant, the department in its sole discretion may terminate the funding grant by written notice. If the grant is terminated, the department must reserve its right to pursue all available remedies under law to address the violation.

(7) The requirements in subsections (4) and (6) of this section must be specified in funding agreements issued by the department.

(8) \$17,594,000 of the state building construction account—state appropriation is provided solely for grid modernization grants.

(a)(i) \$11,000,000 is provided solely for projects that: Advance community resilience, clean and renewable energy technologies and transmission and distribution control systems; support integration of renewable energy sources, deployment of distributed energy resources and sustainable microgrids; and support state decarbonization goals pursuant to the clean energy transformation act, including requirements placed upon retail electric utilities.

(ii) Projects must be implemented by community organizations, local governments, federally recognized tribal governments, or by public and private electrical utilities that serve retail customers in the state (retail electric utilities).

Projects submitted by applicants other than retail electric utilities must demonstrate partnership with their load serving entity to apply. Priority must be given to:

(A) Projects that benefit vulnerable populations, including tribes and communities with high environmental or energy burden; and

(B) Projects that demonstrate partnerships between eligible applicants in applying for funding, including utilities, public and private sector research organizations, businesses, tribes, and nonprofit organizations.

(iii) The department shall develop a grant application process to competitively select projects for grant awards, to include scoring conducted by a group of qualified experts with application of criteria specified by the department. In development of the application criteria, the department shall, to the extent possible, develop program guidelines that encourage smaller utilities or consortia of small utilities to apply for funding. Where suitable, this may include funding for projects consisting solely of planning, predesign and/or predevelopment activities.

(iv) Applications for grants must disclose all sources of public funds invested in a project.

(b) \$3,550,000 of the appropriation in this section is provided solely for a grant to the Public Utility District No. 1 of Lewis county for land acquisition and construction of the Winlock Industrial Park and South County Substation and Transmission facility, located on North Military Road in Winlock.

(c) \$3,044,000 of the appropriation in this section is provided solely for a grant to the Klickitat County Public Hospital District #1 for the Electrical Upgrade and Smart Grid project at the Klickitat Valley Health Hospital in Goldendale.

(9) \$10,830,000 of the state building construction account—state appropriation is provided solely for grants for strategic research and development for new and emerging clean energy technologies. These grants must be used to match federal or other nonstate funds to research, develop, and demonstrate clean energy technologies, focusing on areas that help develop technologies to meet the state's climate goals, offer opportunities for economic and job growth, and strengthen technology supply chains. The program may include, but is not limited to: Solar technologies, advanced bioenergy and biofuels, development of new earth abundant materials or lightweight materials, advanced energy storage, recycling energy system components, and new renewable energy and energy efficiency technologies.

(a) \$5,000,000 of the appropriation in this section is provided solely for competitive grants.

(b) \$4,800,000 of the appropriation in this section is provided solely for a grant to the Pacific Northwest National Laboratory for a renewable energy platform to support ocean energy research and development testbeds for the Marine and Coastal Research Laboratory in Sequim.

(c) \$1,030,000 of the appropriation in this section is provided solely for a grant to the Chelan County Public Utility District for the hydroelectric turbine hub project at Rocky Reach dam near Wenatchee.

(10)(a) \$2,500,000 of the state taxable building construction account—state appropriation is provided solely as grants to nonprofit lenders to create a revolving loan fund to support the widespread use of proven energy efficiency

and renewable energy technologies by households, or for the benefit of households, with high energy burden or environmental health risk now inhibited by lack of access to capital.

(b) The department shall provide grant funds to one or more competitively selected nonprofit lenders that must provide matching private capital and administer the loan fund. The department shall select the loan fund administrator or administrators through a competitive process, with scoring conducted by a group of qualified experts, applying criteria specified by the department.

(c) The department must establish guidelines that specify applicant eligibility, the screening process, and evaluation and selection criteria. The guidelines must be used by the nonprofit lenders.

(11) \$5,550,000 of the state building construction account—state appropriation is provided solely for grants to demonstrate innovative approaches to electrification of transportation systems.

(a)(i) \$3,000,000 of the appropriation is provided solely for competitive grants, prioritizing projects that:

(A) Demonstrate meaningful and enduring benefits to communities and populations disproportionately burdened by air pollution, climate change, or lack of transportation investments;

(B) Beneficially integrate load using behavioral, software, hardware, or other demand-side management technologies, such as demand response, time-of-use rates, or behavioral programming;

(C) Accelerate the transportation electrification market in Washington using market transformation principles; or

(D) Develop electric vehicle charging and hydrogen fueling infrastructure along highways, freeways, and other heavily trafficked corridors across the state to support long-distance travel.

(ii) Projects must be implemented by local governments, federally recognized tribal governments, by public and private electrical utilities that serve retail customers in the state, or state agencies. Eligible parties may partner with other public and private sector research organizations and businesses in applying for funding. The department shall consult and coordinate with the Washington state department of transportation on project selection and implementation. The department shall also coordinate with other state agencies that have other electrification programs, in order to determine to optimally accomplish each agency's respective policy and program goals.

(iii) Projects must be related to on-road end-uses and nonmaritime off-road uses.

(iv) Eligible technologies for these projects include, but are not limited to:

(A) Battery electric vehicle supply equipment;

(B) On-site generation or storage, where the technology directly supplies electricity to the electric vehicle supply equipment;

(C) Electric grid distribution system infrastructure upgrades, where the upgrade is needed as a result of the installed electric vehicle supply equipment;

(D) Hydrogen refueling station infrastructure that:

(I) Dispenses renewable hydrogen or hydrogen produced in Washington with electrolysis; and

(II) Aligns with the 2021 state energy strategy's recommended uses of hydrogen in the transportation sector.

(v) \$2,000,000 of the state building construction account—state appropriation is provided solely for federally recognized tribal governments and for local governments in rural communities, for projects aligning with the above objectives and addressing electric vehicle supply infrastructure gaps in rural communities.

(b) \$2,550,000 of the appropriation in this section is provided solely for a grant to the Lewis Public Transportation Benefit Area to construct a hydrogen fueling station that dispenses renewable hydrogen or hydrogen produced in Washington with electrolysis for electric vehicles at Exit 74 on Interstate 5, near Chehalis.

(12)(a) \$10,000,000 of the state building construction account—state appropriation is provided solely for the purpose of building electrification projects that advance the goals of the 2021 state energy strategy to demonstrate grid-enabled, high-efficiency, all electric buildings.

(b) The program may include, but is not limited to: Shifting from fossil fuels to high-efficiency electric heat pumps and other electric equipment, control systems that enable grid integration or demand control, and on-site renewable generation and efficiency measures that significantly reduce building energy loads.

(c) Preference must be given to projects based on total greenhouse gas emissions reductions, accelerating the path to zero-energy, or that demonstrate early adoption of grid integration technology.

(d) Program funding may be administered to entities also receiving incentives provided according to RCW 19.27A.220 for buildings covered by the state energy performance standard, RCW 19.27A.210.

(e) \$5,000,000 of the appropriation in this section is provided solely for the purpose of supporting the transition of residential and commercial buildings away from fossil fuels through the installation of high-efficiency electric heat pumps and other electric equipment.

(13) \$4,924,000 of the state building construction account—state appropriation is provided solely for maritime electrification grants.

(a) \$4,450,000 of the appropriation in this section is provided solely for a grant to the Northwest Seaport Alliance to upgrade the reefer plug capacity at the Port of Seattle's Terminal 5, located in west Seattle.

(b) \$474,000 of the appropriation in this section is provided solely for a grant to the Skagit County Public Works Department for electric ferry charging infrastructure in Anacortes.

(14) \$4,900,000 of the state building construction account—state appropriation is provided solely for the department to develop targeted rural clean energy innovation projects as provided in this subsection (14).

(a) \$150,000 of the appropriation is provided solely for the department to develop targeted rural clean energy strategies informed by rural community and business engagement, outreach, and research. The department must convene a rural energy work group to identify investments, programs, and policy changes that align with the 2021 state energy strategy and increase access to clean energy opportunities in rural communities and agricultural and forestry management practices. The group must identify existing federal funding opportunities and strategies to leverage these funds with state capital investment. By June 30, 2022, the department shall report recommendations and findings from the rural

energy work group to the office of financial management, the governor, and the appropriate legislative committees and present a strategic plan for state rural clean energy investment.

(b) \$4,750,000 of the appropriation is provided solely for rural clean energy innovation grants.

(i) The department must award at least 40 percent of the funding to projects that enhance the viability of dairy digester bioenergy projects through advanced resource recovery systems that produce renewable natural gas and value-added biofertilizers, reduce greenhouse gas emissions, and improve soil health and air and water quality.

(ii) Grants may also be awarded to other clean energy innovation projects in rural communities, including, but not limited to, projects that enhance energy efficiency, demand response, energy storage, renewable energy, beneficial electrification, resilience, organic waste management, and biological carbon sequestration.

(iii) Grants may fund project predevelopment, research, and development, pilot projects, strategic implementation, field trials, and data dashboards and tools to inform rural project development.

(c) The department is encouraged to make 20 percent of the funds under (b) of this subsection (14) to tribal governments, designated subdivisions, and agencies.

(d) If a grant is awarded to purchase heating devices or systems, the agency must, whenever possible and most cost effective, select devices and systems that do not use fossil fuels.

Appropriation:

State Building Construction Account—State	\$53,798,000
State Taxable Building Construction Account—	
State	\$2,500,000
Subtotal Appropriation	\$56,298,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$100,000,000
TOTAL	\$156,298,000

NEW SECTION. Sec. 1065. FOR THE DEPARTMENT OF COMMERCE

2021-23 Energy Retrofits for Public Buildings Grant Program (40000149)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$4,000,000 of the appropriation in this section is provided solely for grants to local governments, public higher education institutions, school districts, federally recognized tribal governments, and state agencies for operational cost savings improvements to facilities and related projects that result in energy and operational cost savings.

(a)(i) \$3,000,000 of the appropriation in this section is provided solely for grants awarded in competitive rounds.

(ii) At least 20 percent of each competitive grant round is designated for award to eligible projects in small cities or towns with a population of 5,000 or fewer residents.

(iii) In each competitive round, a higher energy savings to investment ratio must result in a higher project ranking. Priority consideration must be given to applicants that have not received grant awards for this purpose in prior biennia.

(iv) The department must determine a minimum match ratio to maximize the leverage of nonstate funds.

(b) \$450,000 of the appropriation in this section is provided solely for a grant to Western Washington University for the heating system conversion feasibility study.

(c) \$550,000 of the appropriation in this section is provided solely for a grant to Whidbey Island Public Hospital District for energy upgrades at WhidbeyHealth Medical Center in Coupeville.

(2)(a) \$1,000,000 of the appropriation in this section is provided solely for grants to be awarded in competitive rounds to local governments, public higher education institutions, school districts, federally recognized tribal governments, and state agencies for projects that involve the purchase and installation of solar energy systems, including solar modules and inverters, with a preference for products manufactured in Washington.

(b) At least 20 percent of each competitive grant round is designated for award to eligible projects in small cities or towns with a population of 5,000 or fewer residents.

(c) In each competitive round, a higher energy savings to investment ratio must result in a higher project ranking. Priority consideration must be given to applicants that have not received grant awards for this purpose in prior biennia.

(d) The department must determine a minimum match ratio to maximize the leverage of nonstate funds.

(3) \$4,500,000 of the appropriation in this section is provided solely for the energy efficiency and environmental performance improvements to minor works, stand-alone, and emergency projects at facilities owned by agencies named by the state efficiency and environmental performance office executive order 20-01 that repair or replace existing building systems and reduce greenhouse gas emissions from state operations, including, but not limited to, HVAC, lighting, insulation, windows, and other mechanical systems. Eligibility for this funding is dependent on an analysis using the office of financial management's life-cycle cost tool that compares project design alternatives for initial and long-term cost-effectiveness. Assuming a reasonable return on investment, the department shall provide grants in the amount required to improve the project's energy efficiency compared to the original project request. Prior to awarding funds, the department shall submit to the office of financial management a list of all proposed awards for review and approval.

(4) The department shall develop metrics that indicate the performance of energy efficiency efforts.

(5) \$457,000 of the appropriation provided in this section is provided solely for photovoltaic panels for the capitol campus child care center.

(6) If a grant is provided in subsection (1) or (3) of this section to purchase heating devices or systems, the agency must, whenever possible and most cost effective, select devices and systems that do not use fossil fuels.

Appropriation:

State Building Construction Account—State	\$9,957,000
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs).....	\$0
TOTAL	\$9,957,000

NEW SECTION. Sec. 1066. FOR THE DEPARTMENT OF COMMERCE

2021-23 Weatherization Plus Health (40000150)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$5,000,000 of the appropriation in this section is provided solely for grants for the Washington State University energy extension community energy efficiency program (CEEP) to support homeowners, tenants, and small business owners in making sound energy efficiency investments by providing consumer education and marketing, workforce support through training and lead generation, and direct consumer incentives for upgrades to existing homes and small commercial buildings. This is the maximum amount the department may expend for this purpose.

(2) The department, in collaboration with the Washington State University, shall make recommendations to the appropriate committees of the legislature on strategies to expand and align the weatherization program and the rural rehabilitation loan program. The department shall report the recommendations to the appropriate committees of the legislature and the governor by November 1, 2022. The recommendations must include strategies to:

(a) Recruit community energy efficiency program sponsors that are community-based organizations located in geographic areas of the state that have not received funding for low-income weatherization programs, targeting hard to reach market segments;

(b) Leverage funding from community energy efficiency program sponsors in an amount greater than or equal to the amount provided by the state through the weatherization program;

(c) Ensure that community energy efficiency program utility sponsors work with non-profit community-based organizations to deliver community energy efficiency program services; and

(d) Identify community energy efficiency program sponsors that support the conversion of space and water heating from fossil fuels to electricity, as part of a set of energy efficiency investments.

(3) If funding from this appropriation is used to purchase heating devices or systems, the agency shall, whenever possible and most cost effective, select devices and systems that do not use fossil fuels.

Appropriation:

State Building Construction Account—State	\$10,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$50,000,000
TOTAL	\$60,000,000

NEW SECTION. Sec. 1067. FOR THE DEPARTMENT OF COMMERCE

2021-23 PWB Broadband Infrastructure (40000152)

The appropriations in this section are subject to the following conditions and limitations:

The appropriations in this section are provided solely for the public works board broadband grant and loan program. Of the amounts appropriated in this section:

(1) \$14,000,000 of the statewide broadband account—state appropriation in this section is provided solely for loans and administrative expenses related to implementation of the broadband program; and

(2) \$46,000,000 of the coronavirus capital projects account—federal appropriation in this section is provided solely for grants and administrative expenses related to implementation of the broadband program.

(3) The appropriations must be used for projects that use a technology-neutral approach in order to expand access at the lowest cost to the most unserved or underserved residents.

Appropriation:

Coronavirus Capital Projects Account—Federal.	\$46,000,000
Statewide Broadband Account—State.	\$14,000,000
Subtotal Appropriation	\$60,000,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$120,000,000
TOTAL	\$180,000,000

NEW SECTION. Sec. 1068. FOR THE DEPARTMENT OF COMMERCE

2021-23 Housing Trust Fund Investment in Affordable Housing (40000153)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$129,903,000 of the state taxable building construction account—state appropriation and \$20,000,000 of the state building construction account—state appropriation are provided solely for production and preservation of affordable housing projects that serve and benefit low-income and special needs populations including, but not limited to, people with chronic mental illness, people with developmental disabilities, farmworkers, people who are homeless, and people in need of permanent supportive housing. The department shall strive to allocate at least 30 percent of these funds to projects located in rural areas of the state, as defined by the department.

(a) In addition to the definition of "first-time home buyer" in RCW 43.185A.010, for the purposes of awarding homeownership projects during the 2021-2023 fiscal biennium "first-time home buyer" also includes:

(i) A single parent who has only owned a home with a former spouse while married;

(ii) An individual who is a displaced homemaker as defined in 24 C.F.R. Sec. 93.2 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and who has only owned a home with a spouse;

(iii) An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations; or

(iv) An individual who has only owned a property that is discerned by a licensed building inspector as being uninhabitable.

(b) \$5,000,000 of the appropriation provided in this subsection (1) is provided solely for housing that serves people with developmental disabilities;

(c)(i) \$20,000,000 of the appropriation in this subsection (1) is provided solely for housing preservation grants or loans to be awarded competitively.

(ii) The funds may be provided for major building improvements, preservation, and system replacements, necessary for the existing housing trust fund portfolio to maintain long-term viability. The department must require a capital needs assessment be provided prior to contract execution. Funds may not be used to add or expand the capacity of the property.

(iii) To allocate preservation funds, the department must review applications and evaluate projects based on the following criteria:

(A) The age of the property, with priority given to buildings that are more than 15 years old;

(B) The population served, with priority given to projects with at least 50 percent of the housing units being occupied by families and individuals at or below 50 percent area median income;

(C) The degree to which the applicant demonstrates that the improvements will result in a reduction of operating or utilities costs, or both;

(D) The potential for additional years added to the affordability period of the property; and

(E) Other criteria that the department considers necessary to achieve the purpose of this program.

(2) \$10,000,000 of the state building construction account—state appropriation is provided solely for grant awards for the development of community housing and cottage communities to shelter individuals or households experiencing homelessness.

(a) \$8,775,000 of the state building construction account—state appropriation is provided solely for competitive grant awards. This funding must be awarded to projects that develop a minimum of four individual structures in the same location. Individual structures must contain insulation, electricity, overhead lights, and heating. Kitchens and bathrooms may be contained within the individual structures or offered as a separate facility that is shared with the community. When evaluating applications for this grant program, the department must prioritize projects that demonstrate:

(i) The availability of land to locate the community;

(ii) A strong readiness to proceed to construction;

(iii) A longer term of commitment to maintain the community;

(iv) A commitment by the applicant to provide, directly or through a formal partnership, case management and employment support services to the tenants;

(v) Access to employment centers, health care providers, and other services; and

(vi) A community engagement strategy.

(b) \$1,225,000 of the state building construction account—state appropriation is provided solely for Eagle Haven Cottage Village located in Bellingham.

(3)(a) \$11,500,000 of the state taxable building construction account—state appropriation is provided solely for the following list of projects:

Bellwether Affordable Housing (Seattle)	\$4,000,000
Didgwalic Transitional Housing (Anacortes)	\$4,500,000

Redondo Heights TOD (Federal Way)	\$3,000,000
(b) \$3,497,000 of the state building construction account—state appropriation is provided solely for the following list of projects:	
Habitat for Humanity (North Bend)	\$250,000
Manette Affordable Housing Project (Bremerton)	\$515,000
OlyCAP Port Townsend Affordable Housing and Child (Port Townsend)	\$412,000
Shelton Young Adult Transitional Housing (Shelton).....	\$515,000
Willapa Center (Raymond)	\$1,805,000

(4) In evaluating projects in this section, the department must give preference for applications based on some or all of the criteria in RCW 43.185.070(5).

(5) The appropriations in this section are subject to the following reporting requirements:

(a) By June 30, 2023, the department must report on its website the following for every previous funding cycle: The number of homeownership and multifamily rental projects funded by housing trust fund moneys; the percentage of housing trust fund investments made to homeownership and multifamily rental projects; and the total number of households being served at up to 80 percent of the area median income, up to 50 percent of the area median income, and up to 30 percent of the area median income, for both homeownership and multifamily rental projects.

(b) Beginning December 1, 2021, and continuing annually, the department must provide the legislature with a report of its final cost data for each project under this section. Such cost data must, at a minimum, include total development cost per unit for each project completed within the past year, descriptive statistics such as average and median per unit costs, regional cost variation, and other costs that the department deems necessary to improve cost controls and enhance understanding of development costs. The department must coordinate with the housing finance commission to identify relevant development costs data and ensure that the measures are consistent across relevant agencies.

(6) \$100,000 of the state building construction account—state appropriation is provided solely for the department of social and health services to complete a study of the community-based housing needs of adults with intellectual and developmental disabilities. The department of social and health services shall collaborate with appropriate stakeholders and the department in completing this study and the study shall:

(a) Estimate the number of adults with intellectual and developmental disabilities who are facing housing insecurity;

(b) Make recommendations for how to improve housing stability for adults with intellectual and developmental disabilities who are facing housing insecurity;

(c) Make recommendations for how to increase the capacity of developers to support increasing the supply of housing that meets the needs of the intellectual and developmental disabilities population; and

(d) Be submitted to the appropriate committees of the legislature no later than December 1, 2022.

(7) The legislature finds that there are insufficient data sources to identify adults with intellectual and developmental disabilities facing housing insecurity

in Washington state and that the absence of reliable data limits the ability for the legislature to make informed decisions that will improve the outcomes of these individuals. The legislature further finds that reliable, current information about the unmet housing needs of this population will position Washington state to leverage community-based partnerships and funding to establish greater housing choice and increased community integration of individuals with intellectual and developmental disabilities.

Appropriation:

State Building Construction Account—State	\$33,597,000
State Taxable Building Construction Account—	
State	\$141,403,000
Subtotal Appropriation	\$175,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$620,000,000
TOTAL	\$795,000,000

NEW SECTION. Sec. 1069. FOR THE DEPARTMENT OF COMMERCE

2021-23 Behavioral Health Community Capacity Grants (40000219)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for the department to issue grants to community hospitals or other community providers to expand and establish new capacity for behavioral health services in communities. The department must consult an advisory group consisting of representatives from the department of social and health services, the health care authority, one representative from a managed care organization, one representative from an accountable care organization, and one representative from the association of county human services. Amounts provided in this section may be used for construction and equipment costs associated with establishment of the facilities. The department may approve funding for the acquisition of a facility if the project will result in increased behavioral health capacity. Amounts provided in this section may not be used for operating costs associated with the treatment of patients using these services.

(2) The department must establish criteria for the issuance of the grants, which must include:

(a) Evidence that the application was developed in collaboration with one or more regional behavioral health entities that administer the purchasing of services;

(b) Evidence that the applicant has assessed and would meet gaps in geographical behavioral health services needs in their region;

(c) Evidence that the applicant is able to meet applicable licensing and certification requirements in the facility that will be used to provide services;

(d) A commitment by applicants to serve persons who are publicly funded and persons detained under the involuntary treatment act under chapter 71.05 RCW;

(e) A commitment by the applicant to maintain and operate the beds or facility for a time period commensurate to the state investment, but for at least a 15-year period;

(f) The date upon which structural modifications or construction would begin and the anticipated date of completion of the project;

(g) A detailed estimate of the costs associated with opening the beds;

(h) A financial plan demonstrating the ability to maintain and operate the facility; and

(i) The applicant's commitment to work with local courts and prosecutors to ensure that prosecutors and courts in the area served by the hospital or facility will be available to conduct involuntary commitment hearings and proceedings under chapter 71.05 RCW.

(3) In awarding funding for projects in subsection (5) of this section, the department, in consultation with the advisory group established in subsection (1) of this section, must strive for geographic distribution and allocate funding based on population and service needs of an area. The department must consider current services available, anticipated services available based on projects underway, and the service delivery needs of an area.

(4) The department must prioritize projects that increase capacity in unserved and underserved areas of the state.

(5) \$71,400,000 of the appropriation in this section is provided solely for a competitive process for each category listed and is subject to the criteria in subsections (1), (2), (3), and (4) of this section:

(a) \$11,600,000 of the appropriation in this section is provided solely for at least six enhanced service facilities for long-term placement of patients discharged or diverted from the state psychiatric hospitals and that are not subject to federal funding restrictions that apply to institutions of mental diseases;

(b) \$10,000,000 of the appropriation in this section is provided solely for enhanced adult residential care facilities for long-term placements of dementia discharged or diverted from the state psychiatric hospitals and are not subject to federal funding restrictions that apply to institutions of mental diseases;

(c) \$2,000,000 of the appropriation in this section is provided solely for at least one facility with secure withdrawal management and stabilization treatment beds that are not subject to federal funding restrictions that apply to institutions of mental diseases;

(d) \$2,000,000 of the appropriation in this section is provided solely for at least one crisis triage and stabilization facility that is not subject to federal funding restrictions that apply to institutions of mental diseases;

(e) \$12,000,000 of the appropriation in this section is provided solely for two 16-bed crisis triage and stabilization facilities in the King county region, one within the city of Seattle and one in south King county, consistent with the settlement agreement in *A.B., by and through Trueblood, et al., v. DSHS, et al.*, No. 15-35462, and that are not subject to federal funding restrictions that apply to institutions of mental disease;

(f) \$2,000,000 of the appropriation in this section is provided solely for at least two mental health peer respite centers that are not subject to federal funding restrictions that apply to institutions of mental diseases. No more than one mental health peer respite center should be funded in each of the nine regions;

(g) \$18,000,000 of the appropriation in this section is provided solely for the department to provide grants to community hospitals, freestanding evaluation and treatment providers, or freestanding psychiatric hospitals to develop

capacity for beds to serve individuals on 90-day or 180-day civil commitments as an alternative to treatment in the state hospitals. In awarding this funding, the department must coordinate with the department of social and health services, the health care authority, and the department of health and must only select facilities that meet the following conditions:

(i) The funding must be used to increase capacity related to serving individuals who will be transitioned from or diverted from the state hospitals;

(ii) The facility is not subject to federal funding restrictions that apply to institutions of mental diseases;

(iii) The provider has submitted a proposal for operating the facility to the health care authority;

(iv) The provider has demonstrated to the department of health and the health care authority that it is able to meet the applicable licensing and certification requirements for the facility that will be used to provide services; and

(v) The health care authority has confirmed that it intends to contract with the facility for operating costs within funds provided in the operating budget for these purposes;

(h) \$2,400,000 of the appropriation in this section is provided solely for competitive community behavioral health grants to address regional needs;

(i) \$9,400,000 of the appropriation in this section is provided solely for at least three intensive behavioral health treatment facilities for long-term placement of behavioral health patients with complex needs and that are not subject to federal funding restrictions that apply to institutions of mental diseases; and

(j) \$2,000,000 of the appropriation in this section is provided solely for grants to community providers to increase behavioral health services and capacity for children and minor youth including, but not limited to, services for substance use disorder treatment, sexual assault and traumatic stress, anxiety, or depression, and interventions for children exhibiting aggressive or depressive behaviors in facilities that are not subject to federal funding restrictions. Consideration must be given to programs that incorporate outreach and treatment for youth dealing with mental health or social isolation issues.

(6)(a) \$15,648,000 of the appropriation in this section is provided solely for the following list of projects and is subject to the criteria in subsection (1) of this section:

Astria Toppenish Hospital (Toppenish)	\$1,648,000
Compass Health Broadway (Everett)	\$14,000,000

(b) \$8,116,000 of the appropriation in this section is provided solely for the following list of projects and is subject to the criteria in subsection (1) of this section, except that the following projects are not required to establish new capacity:

Family Solutions (Vancouver)	\$2,050,000
Renovation Youth Evaluation & Treatment Facility (Bremerton)	\$316,000
Sound Enhanced Services Facility (Auburn)	\$3,000,000
Three Rivers Behavioral Health Recovery Center (Kennewick)	\$2,750,000

(7) The department must notify all applicants that they may be required to have a construction review performed by the department of health.

(8) To accommodate the emergent need for behavioral health services, the department and the department of health, in collaboration with the health care authority and the department of social and health services, must establish a concurrent and expedited process to assist grant applicants in meeting any applicable regulatory requirements necessary to operate inpatient psychiatric beds, freestanding evaluation and treatment facilities, enhanced services facilities, triage facilities, crisis stabilization facilities, or secure detoxification/secure withdrawal management and stabilization facilities.

(9) The department must strive to allocate all of the amounts appropriated within subsection (5) of this section in the manner prescribed. However, if upon review of applications, the department determines, in consultation with the advisory group established in subsection (1) of this section, that there are not adequate suitable projects in a category of projects under subsection (5) of this section, the department may allocate funds to other behavioral health capacity project categories within subsection (5) of this section, prioritizing projects under subsections (5)(a), (g), and (i) of this section. Underserved areas of the state may also be considered.

(10) The department must provide a progress report by November 1, 2022. The report must include:

- (a) The total number of applications and amount of funding requested;
- (b) A list and description of the projects approved for funding including state funding, total project cost, services anticipated to be provided, bed capacity, and anticipated completion date; and
- (c) A status report of projects that received funding in prior funding rounds, including details about the project completion and the date the facility began providing services.

Appropriation:

State Building Construction Account—State	\$95,164,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$120,000,000
TOTAL	\$215,164,000

NEW SECTION. Sec. 1070. FOR THE DEPARTMENT OF COMMERCE

2019-21 Housing Trust Fund Investment from Operating (40000220)

The appropriation in this section is subject to the following conditions and limitations:

(1)(a) \$37,651,000 of the appropriation in this section is provided solely for production and preservation of affordable housing.

(b) In evaluating projects in this subsection (1), the department must give preference for applications based on some or all of the criteria in RCW 43.185.070(5).

(c) The appropriations in this subsection are subject to the reporting requirements in section 1029 (3) and (4), chapter 413, Laws of 2019.

(2)(a) \$9,790,000 of the appropriation in this section is provided solely for the preservation of affordable multifamily housing at risk of losing affordability due to expiration of use restrictions that otherwise require affordability

including, but not limited to, United States department of agriculture funded multifamily housing.

(b) Within the amount provided in this subsection (2), the department must implement the necessary procedures to enable rapid commitment of funds on a first-come, first-served basis to qualifying project proposals that satisfy the goal of long-term preservation of Washington's affordable multifamily housing stock, particularly in rural areas of the state.

(c) The department must adhere to the following award terms and procedures for the rapid response program created under (b) of this subsection:

(i) The funding is not subject to the 90-day application periods in RCW 43.185.070 or 43.185A.050.

(ii) Awards must be in the form of a recoverable grant with a 40-year low-income housing covenant on the land.

(iii) If a capital needs assessment is required, the department must work with the applicant to ensure that this does not create an unnecessary impediment to rapidly accessing these funds.

(iv) Awards may be used for acquisition or for acquisition and rehabilitation of properties to preserve the affordable housing units beyond existing use restrictions and keep them in Washington's housing portfolio.

(v) No single award may exceed \$2,500,000, although the department must consider waivers of this award cap if an applicant demonstrates sufficient need.

(vi) The award limit in (c)(v) of this subsection (2) may only be applied to the use of awards provided under this subsection. The amount awarded under this subsection may not be calculated in award limitations for other housing trust fund awards.

(vii) If the department receives simultaneous applications for funding under this program, proposals that provide the greatest public benefit, as defined by the department, must be prioritized. For purposes of this subsection (2)(c)(vii), "greatest public benefit" includes, but is not limited to:

(A) The number of units that will be preserved;

(B) Whether the project has federally funded rental assistance tied to it;

(C) The scarcity of the affordable housing applied for compared to the number of available affordable housing units in the same geographic location; and

(D) The program's established funding priorities under RCW 43.185.070(5).

(d) The appropriations in this subsection are subject to the reporting requirements in section 1029 (3)(b) and (4)(b), chapter 413, Laws of 2019.

Appropriation:

Washington Housing Trust Account—State	\$47,441,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$47,441,000

NEW SECTION. Sec. 1071. FOR THE DEPARTMENT OF COMMERCE

2021-23 Rapid Capital Housing Acquisition (40000222)

The appropriation in this section is subject to the following conditions and limitations:

(1) Except as provided in subsections (7) through (9) of this section, the appropriation in this section is provided solely for the department to issue

competitive financial assistance to eligible organizations under RCW 43.185A.040 to acquire or rent real property for a rapid conversion into enhanced emergency shelters, permanent supportive housing, transitional housing, permanent housing, youth housing, drop-in center, or shelter for extremely low-income people, as well as individuals, families, unaccompanied youth, and young people experiencing sheltered and unsheltered homelessness. Amounts provided in this section may be also used for renovation and building update costs associated with establishment of the acquired or rented facilities. For youth housing, drop-in centers, and shelter projects, renovation of existing properties is an allowable activity. The department may only approve funding for projects resulting in increased shelter or housing capacity. Amounts provided in this section may not be used for operating or maintenance costs associated with providing housing, supportive services, or debt service.

(2) Funds may also be used for permanent financing for real estate acquired using other short term acquisition sources. To expand availability of permanent housing, financing of acquisition of unoccupied multifamily housing is a priority. Funds must also be provided specifically for the city of Seattle to move people experiencing unsheltered homelessness into safe spaces, including, but not limited to, tiny homes, hotels, enhanced emergency shelters, or other rapid housing alternatives.

(3) While emphasizing the rapid deployment of the amounts appropriated under this section to alleviate the immediate crisis of homelessness throughout the state, the department shall establish criteria for the issuance of the grants, which may include provisions that require that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant, during which time the property must 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 on the date most close in time to the date of authorization of the grant. The criteria must include:

(a) The date upon which structural modifications or construction would begin and the anticipated date of completion of the project;

(b) A detailed estimate of the costs associated with the acquisition and any updates or improvements necessary to make the property habitable for its intended use;

(c) A detailed estimate of the costs associated with opening the beds or units; and

(d) A financial plan demonstrating the ability to maintain and operate the property and support its intended tenants throughout the end of the grant contract.

(4) The department must provide a progress report on its website by December 1, 2022. The report must include:

(a) The total number of applications and amount of funding requested; and

(b) A list and description of the projects approved for funding including state funding, total project cost, services anticipated to be provided, housing units, and anticipated completion date.

(5) The funding provided under this section is not subject to the 90-day application periods in RCW 43.185.070 or 43.185A.050. The department of

commerce shall dispense funds to the city of Seattle and other qualifying applicants within 45 days of receipt of documentation from the applicant for qualifying uses and execution of any necessary contracts with the department in order to effect the purpose of rapid deployment of funds under this section.

(6) If the department receives simultaneous applications for funding under this program, proposals that reach the greatest public benefit, as defined by the department, must be prioritized. For purposes of this subsection (6), "greatest public benefit" must include, but is not limited to:

(a) The greatest number of accommodations or increased shelter capacity that will benefit extremely low-income people, as well as individuals, families, and youth experiencing homelessness.

(b) Whether the program has federally funded rental assistance tied to it;

(c) The scarcity of the affordable housing or shelter capacity applied for compared to the number of available affordable housing units or shelter capacity in the same geographic location; and

(d) The program's established funding priorities under RCW 43.185.070(5).

(7) \$900,000 of the state building construction account—state appropriation in this section is provided solely for the public building conversion pilot program. The pilot program must be implemented in Grays Harbor county in collaboration with Community House on Broadway, in partnership with CORE Health.

(a) The appropriation may be used only for costs related to rehabilitation, retrofitting, and conversion of the publicly owned building for use as housing for homeless persons.

(b) The appropriation may not be used for staffing or maintaining buildings converted to housing for homeless persons. Costs for staffing and maintenance must be borne by the county or the contractor.

(c) In the contract for the pilot program, the department shall include provisions that require 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.

(d) The pilot program should help inform the development of a public building conversion grant program to encourage counties to convert unused, publicly owned buildings into housing for homeless persons. The department must report to the office of financial management and fiscal committees of the legislature by November 1, 2022, regarding the establishment of the pilot program and any recommendations related to implementation of a public building conversion grant program.

(8) \$17,800,000 of the state building construction account—state appropriation is provided solely for the following list of projects:

\$5,000,000 for the Tacoma Housing Authority affordable housing acquisition;

\$4,000,000 for the Keiro nursing home acquisition in Seattle;

\$1,500,000 for the Parkland/Spanaway homeless shelter;

\$300,000 for the Concord apartments acquisition in Seattle;

\$2,000,000 for the Eastgate supportive housing in Bellevue; and
\$5,000,000 for the City of Seattle for the acquisition of the Clay Apartments in partnership with a low-income housing provider.

(9)(a) \$7,903,000 of the coronavirus capital projects account—federal appropriation is provided solely for the following list of youth housing projects identified by the office of homeless youth protection and prevention programs:

FYRE's Village: Housing Stability for Young Adults	
(Omak)	\$3,350,000
NWYS Young Adult Shelter Services (Bellingham).	\$438,000
OlyCap Pfeiffer House (Port Townsend).	\$127,000
Ryan's House for Youth Campus (Coupeville)	\$1,015,000
Shelton Young Adult Transitional Housing (Shelton).	\$773,000
Volunteers of America Crosswalk 2.0 (Spokane)	\$2,200,000

(b) If funding provided in (a) of this subsection needs to be reallocated, the department shall consult with the office of homeless youth prevention and protection programs to identify other eligible youth housing projects.

Appropriation:

State Building Construction Account—State	\$90,000,000
Coronavirus Capital Projects Account—Federal.	\$30,435,000
Subtotal Appropriation	\$120,435,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$120,435,000

NEW SECTION. Sec. 1072. FOR THE DEPARTMENT OF COMMERCE

Continuing Affordability in Current Housing (91001659)

The appropriation in this section is subject to the following conditions and limitations:

\$10,000,000 of the appropriation in this section is provided solely for the preservation of affordable multifamily housing at risk of losing affordability due to expiration of use restrictions that otherwise require affordability including, but not limited to, United States department of agriculture funded multifamily housing.

(1) Within the amount provided in this section, the department must implement necessary procedures to enable rapid commitment of funds on a first-come, first-served basis to qualifying project proposals that satisfy the goal of long-term preservation of Washington's affordable multifamily housing stock, particularly in rural areas of the state.

(2) The department must adhere to the following award terms and procedures for the rapid response program created under this section:

(a) The funding is not subject to the 90-day application periods in RCW 43.185.070 or 43.185A.050.

(b) Awards must be in the form of a recoverable grant with a 40-year low-income housing covenant on the land.

(c) If a capital needs assessment is required, the department must work with the applicant to ensure that this does not create an unnecessary impediment to rapidly accessing these funds.

(d) Awards may be used for acquisition or for acquisition and rehabilitation of properties to preserve the affordable housing units beyond existing use restrictions and keep them in Washington's housing portfolio.

(e) No single award may exceed \$2,500,000, although the department must consider waivers of this award cap if an applicant demonstrates sufficient need.

(f) The award limit in (e) of this subsection (2) may only be applied to the use of awards provided under this section. The amount awarded under this section may not be calculated in award limitations for other housing trust fund awards.

(g) If the department receives simultaneous applications for funding under this program, proposals that reach the greatest public benefit, as defined by the department, must be prioritized.

(3) For purposes of this section, "greatest public benefit" includes, but is not limited to:

(a) The number of units that will be preserved;

(b) Whether the project has federally funded rental assistance tied to it;

(c) The scarcity of the affordable housing applied for compared to the number of available affordable housing units in the same geographic location; and

(d) The program's established funding priorities under RCW 43.185.070(5).

Appropriation:

State Building Construction Account—State	\$10,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,000,000

NEW SECTION. Sec. 1073. FOR THE DEPARTMENT OF COMMERCE

2021-23 Rural Rehabilitation Loan Program (40000223)

Appropriation:

State Taxable Building Construction Account—	
State	\$5,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 1074. FOR THE DEPARTMENT OF COMMERCE

Grants for Affordable Housing Development Connections (91001685)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for grants to local governments and public utility districts for system development charges and utility improvements for new affordable housing projects that serve and benefit low-income households. Where applicable, the extension must be consistent with the approved comprehensive plans under the growth management act and must be within the established boundaries of the urban growth area.

(2) \$7,600,000 of the state building construction account—state appropriation and \$16,300,000 of the coronavirus state fiscal recovery fund—federal appropriation in this section are provided solely for grants to local

governments or public utilities located within a jurisdiction that imposed a sales and use tax under RCW 82.14.530(1)(a)(ii), 82.14.530(1)(b)(i)(B), 82.14.540, or 84.52.105.

(3) \$10,700,000 of the coronavirus state fiscal recovery fund—federal appropriation in this section is provided solely for grants to local governments or public utilities located within:

(a) A city or county with a population of 150,000 or less; and

(b) A jurisdiction that imposed a sales and use tax under RCW 82.14.530(1)(a)(ii) or 82.14.530(1)(b)(i)(B).

(4) The department shall coordinate with the office of financial management and the governor's office to develop a process for project submittal, project selection criteria, review, and monitoring, and tracking the housing development projects that receive affordable housing development connections grants under this section. To be eligible for funding under this section, an applicant must demonstrate, at minimum:

(a) That affordable housing development will begin construction within 24 months of the grant award; and

(b) A strong probability of serving the original target group or income level for a period of at least 25 years.

(5) \$1,700,000 of the state building construction account—state appropriation in this section is provided solely for the Port Townsend Utility Connection Project.

(6) \$5,700,000 of the state building construction account—state appropriation in this section is provided solely for the Chelan municipal airport extension.

(7) To ensure compliance with conditions of the federal coronavirus state fiscal recovery fund, all expenditures from the coronavirus state fiscal recovery account—federal appropriation in this section must be incurred by December 31, 2024.

(8) For purposes of this section, the following definitions apply.

(a) "Affordable housing" and has the same meaning as in RCW 43.185A.010.

(b) "Low-income household" has the same meaning as in RCW 43.185A.010.

(c) "System development charges" means charges for new drinking water, wastewater, or stormwater connections when a local government or public utility has waived standard fees normally applied to developers for connection charges on affordable housing projects.

(d) "Utility improvements" means drinking water, wastewater, or stormwater utility improvements.

Appropriation:

Coronavirus State Fiscal Recovery Account—

Federal \$27,000,000

State Building Construction Account—State \$15,000,000

Subtotal Appropriation \$42,000,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$42,000,000

NEW SECTION. Sec. 1075. FOR THE DEPARTMENT OF COMMERCE

2022 Local & Community Projects (40000230)

The appropriation in this section is subject to the following conditions and limitations:

(1) The department may not expend the appropriation in this section unless and until the nonstate share of project costs have been either expended or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature. This requirement does not apply to projects where a share of the appropriation is for design costs only.

(2) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of 10 years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations in which the sole purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high-performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and may not be advanced under any circumstances.

(5) In contracts for grants authorized under this section, the department must include provisions that require 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.

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) The department must comply with the requirements set forth in executive order 21-02 and must consult with the department of archaeology and historic preservation and affected tribes on the potential effects of these projects on cultural resources and historic properties. Consultation with the department of archaeology and historic preservation and affected tribes must be initiated before project funds are made available.

(8)(a) The appropriation is provided solely for the following list of projects: Adams County Property/Evidence Processing Facility

(Othello)	\$900,000
Amara 29 Acre Opportunity in Pierce County (Tacoma)	\$246,000
American Lake Park ADA Improvement Project (Lakewood)	\$258,000
American Legion Building Renovation (Goldendale).	\$262,000
American Legion Veterans Housing & Resource Ctr (Raymond).	\$88,000
Arlington Innovation Center (Arlington).	\$372,000
Ashley House (Spokane)	\$552,000

Aurora Commons Acquisition (Seattle)	\$2,500,000
Ballinger Park - Hall Creek Restoration (Mountlake Terrace)	\$824,000
Battle Ground HealthCare Free Clinic Relocation (Battle Ground)	\$1,000,000
Bellevue High School Automotive Dynamometer Install (Bellevue)	\$277,000
Bigelow House Museum Preservation (Olympia)	\$52,000
BIPOC Artist Installation at Kraken Training Center (Seattle)	\$155,000
Brewery Park Visitor Center (Tumwater)	\$1,200,000
Bridges To Home (Shoreline)	\$2,000,000
Camp Kilworth - YMCA Day Camp/Environmental Educ (Federal Way)	\$1,030,000
Campus Towers Roofing Project (Longview)	\$301,000
Capitol Theatre Curtains/Soft Goods Replacement (Yakima)	\$250,000
Central Klickitat County Parks Improvements (Goldendale)	\$25,000
Chehalis Centralia Steam Locomotive Repair/Restore (Chehalis)	\$123,000
Children's Village Neurodevelopmental Center Expansion (Yakima)	\$750,000
City of Wenatchee Community Center (Wenatchee)	\$2,500,000
Civic Park Mika's Playground (Edmonds)	\$258,000
Clallam Joint Emergency Services (Port Angeles)	\$1,200,000
Class A Biosolids Dryer (Yelm)	\$850,000
Clemans View Park (Naches)	\$442,000
Coastal Community Action Program Service Ctr (Aberdeen)	\$500,000
Communications Tower (Ocean Shores)	\$77,000
Community Action Resource and Training Center (Omak)	\$400,000
Community Multi-Use Center (Carnation)	\$1,030,000
Cornforth Campbell Demolition & Infrastructure (Puyallup)	\$330,000
Coulee City Medical Clinic (Coulee City)	\$846,000
Coulon North Water Walk Repair and Enhancement (Renton)	\$1,339,000
Coupeville Boys & Girls Club (Coupeville)	\$1,030,000
Cow Skull Creek and Rushingwater Creek Acclimation Ponds (Orting)	\$690,000
Craft Beverage Lab & Instrumentation (Tumwater)	\$773,000
Cross Park Trail and Picnic Shelter (Tacoma)	\$206,000
CSML Food Bank Facility (Moses Lake)	\$1,900,000
Cultural Anchor Village (Tukwila)	\$1,500,000
Curran House Museum (University Place)	\$85,000
Dawson Place Facilities (Everett)	\$258,000
Day/Night House Exhibit Rebuild - Design Phase (Seattle)	\$300,000
Daybreak Star Indian Cultural Center (Seattle)	\$2,600,000
Delridge Wetland Park (Seattle)	\$244,000
Des Moines North Marina Bulkhead Replacement Ph II	

(Des Moines)	\$2,000,000
Doris Morrison Learning Center (Greenacres)	\$1,030,000
Downtown Puyallup Redevelopment Infrastructure (Puyallup)	\$257,000
Downtown Revitalization (Blaine)	\$500,000
Duffy's Pond Pathway Completion (Kennewick)	\$38,000
Early Learning Facility Project for Licensed Childcare (Hoquiam)	\$721,000
East County Family Resource Center Renovation (Washougal)	\$721,000
Edmonds Marsh Restoration (Edmonds)	\$258,000
Edmonds Waterfront Center (Edmonds)	\$250,000
Ejido Farm Project (Everson)	\$200,000
Ellensburg Masonic Temple (Ellensburg)	\$258,000
Ellensburg Rodeo Grandstands (Ellensburg)	\$1,500,000
Ephrata Rec Center Upgrade (Ephrata)	\$621,000
Esther's Home (Pasco)	\$1,000,000
Ethiopian Community Affordable Housing (Seattle)	\$3,000,000
Extruded Curb Improvements (Kirkland)	\$515,000
Family Engagement Center (Seattle)	\$1,030,000
Felts Field Gateway Project (Spokane)	\$400,000
Ferry County Airport Runway Lighting System (Republic)	\$450,000
Flag Plaza Redevelopment (Kennewick)	\$46,000
FOE Meeting and Dance Hall (Puyallup)	\$77,000
Fourth Plain Community Commons (Vancouver)	\$1,236,000
Franklin Pierce Farm Agricultural Resource Center (Tacoma)	\$3,900,000
Frontier Park - Goat Barn Roof (Graham)	\$89,000
Frontier Park-Horse Arena Cover (Graham)	\$1,811,000
Garfield Pool Upgrade (Garfield)	\$500,000
Gas Station Park Improvements (Tacoma)	\$515,000
Gold Mountain Communications Zone - Upgraded Telecomm (Bremerton)	\$835,000
Granger Historical Society Museum (Granger)	\$300,000
Green Lake Community Boathouse (Seattle)	\$100,000
Grounds Improvement Proposal (Ritzville)	\$150,000
Health Care Kiosk Deployment (Federal Way)	\$75,000
Historic Downtown Chelan Infrastructure Predesign (Chelan)	\$150,000
Immigrant and Refugee Community Hub (Tukwila)	\$960,000
Island County Criminal Justice Renovation (Coupeville)	\$600,000
IT3 Discovery Center (Ridgefield)	\$1,350,000
Japanese Gulch Daylighting (Mukilteo)	\$206,000
Jim Kaemingk Sr. Trail (Lynden)	\$200,000
Joya Child & Family Development Center (Spokane)	\$1,200,000
JV Memorial Pool Roof (Oak Harbor)	\$250,000
Kitsap Lake Park Renovation & Accessibility (Bremerton)	\$258,000
Kittitas Valley Healthcare Laboratory Services Reno (Ellensburg)	\$397,000

La Center City Hall Improvements (La Center)	\$1,236,000
Lake Lawrence Fire Station (Yelm)	\$515,000
Lake Sacajawea Renovation Project (Longview)	\$900,000
Lake Stevens Civic Center Phase 3 (Lake Stevens)	\$2,100,000
Lakefront Property Acquisition (Lake Forest Park)	\$432,000
LASA Client Services Center (Lakewood)	\$515,000
Leavenworth Ski Hill ADA Restroom (Leavenworth)	\$52,000
Lewis County Public Safety Radio Infrastructure (Chehalis)	\$129,000
Lewis County Youth Services Renovation and Addition (Chehalis)	\$824,000
LGBTQ-Affirming Senior Center (Seattle)	\$1,030,000
Links to Opportunity (Tacoma)	\$2,000,000
Little League Field Improvement (Federal Way)	\$200,000
Longview Hospice Care Center Renovation (Longview)	\$765,000
Lopez Island Swim Center (Lopez Island)	\$245,000
Lynnwood Neighborhood Center (Lynnwood)	\$500,000
Maddie's Place (Spokane)	\$644,000
Madrona Day Treatment School (Bremerton)	\$321,000
Magnuson Park Hangar 2 (Seattle)	\$1,130,000
Main Street Phase 2 (Mountlake Terrace)	\$1,200,000
Mariner Community Campus (Everett)	\$1,670,000
Martin Luther King Center Improvements (Pasco)	\$1,000,000
Mary's Place Shelter Renovation (Burien)	\$352,000
Marysville Trail Connector (Marysville)	\$515,000
Mason County Veterans Memorial Hall Refurbishment (Shelton)	\$62,000
McKinney Center Renovations (Seattle)	\$1,000,000
Meadowglen Community Park (Spokane)	\$77,000
Medical Examiner's Facility Upgrades (Spokane)	\$600,000
Miller Park (Yakima)	\$642,000
MLK Community Center Roof Replacement (Spokane)	\$1,380,000
Moses Lake Business Incubator (Moses Lake)	\$1,313,000
Mountain Rescue Center (North Bend)	\$222,000
Nelson Dam Removal Project (Naches)	\$1,325,000
New Ground Kirkland (Kirkland)	\$258,000
Next Chapter Morgan Shelter (Tacoma)	\$16,000
NJROTC/NNDC Program Peninsula School District (Gig Harbor)	\$170,000
North Bend Depot Rehab (North Bend)	\$151,000
North Clear Zone Land Acquisition (Lakewood)	\$1,400,000
North Creek Trail (Bothell)	\$618,000
North Seattle Boys & Girls Club Safety Upgrades (Seattle)	\$361,000
Northwest Kidney Centers Clinic (Port Angeles)	\$900,000
Ocean Beach Medical Group - Ilwaco Clinic (Ilwaco)	\$309,000
Panther Lake Community Park (Kent)	\$2,000,000
Patterson Park Preservation & Upgrade (Republic)	\$300,000
Pedestrian Overcrossing Replacement (Kalama)	\$2,250,000

Perfect Passage (Tonasket)	\$1,698,000
Perry Technical Institute Auditorium Renovation (Yakima)	\$1,550,000
Peter Kirk Community Center Roof and Retrofitted Emerg (Kirkland)	\$773,000
Phase 1 Master Plan - COVID Mitigation (Lake Stevens)	\$103,000
Phase 1 of Trails Plan Improvements (Issaquah)	\$251,000
Planning & Upgrades Edmonds Boys & Girls Club (Edmonds)	\$200,000
Point Hudson Breakwater (Port Townsend)	\$1,000,000
Police Station Renovations - City of Duvall (Duvall)	\$107,000
Port of Olympia Marine Center (Olympia)	\$250,000
Port of Vancouver Waterfront T1 Building Demo/Deconst (Vancouver)	\$1,000,000
Port Susan Trail (Stanwood)	\$742,000
Port Townsend Affordable Housing Development (Port Townsend)	\$1,400,000
Proclaim Liberty Affordable Housing (Spokane)	\$2,000,000
Project Chairlift: Lifting Up Washington State Chair 1 (Mead)	\$750,000
Pts of Ilwaco/Chinook Nav Infrastructure (Ilwaco & Chinook)	\$634,000
Public Pavilion for Shoreline Park (Shoreline)	\$361,000
Puyallup Recreation Center (Puyallup)	\$1,030,000
Puyallup Valley Cultural Heritage Center (Puyallup)	\$335,000
Rainier View Covered Court (Sumner)	\$245,000
Ramstead Regional Park (Everson)	\$1,500,000
Redmond Senior and Community Center (Redmond)	\$1,250,000
Redondo Fishing Pier (Des Moines)	\$900,000
Replacement Hospice House (Richland)	\$900,000
Resource Center Planning (Pasco)	\$250,000
Ridgefield I-5 Pedestrian Screen (Ridgefield)	\$335,000
Ridgefield YMCA (Ridgefield)	\$258,000
Ridgetop DNR Trust Land Purchase (Silverdale)	\$2,050,000
Ritzville Downtown Improvements (Ritzville)	\$105,000
Sargent Oyster House Restoration (Allyn)	\$344,000
School Based Health Care Clinic (Tacoma)	\$750,000
SE 168th St. Bike Lanes/Safe Crossings (Renton)	\$500,000
Seattle Aquarium Expansion (Seattle)	\$2,000,000
Seattle Kraken Multisport Courts (Seattle)	\$103,000
Selah-Moxee Irrigation District (Moxee)	\$300,000
Seminary Hill Natural and Heritage Trail Project (Centralia)	\$52,000
Sheffield Trail (Fife)	\$1,030,000
Shipleigh Senior Center (Sequim)	\$463,000
Shoreline Parks Restrooms (Shoreline)	\$412,000
SIHB Thunderbird Treatment Center (Seattle)	\$309,000
Silver Crest Park (Mill Creek)	\$90,000
Skabob House Cultural Center Art Studio (Skokomish)	\$500,000
Skagit County Morgue (Mount Vernon)	\$139,000

Sky Valley Teen Center (Sultan)	\$773,000
Snohomish County Food and Farming Center (Everett)	\$2,550,000
Snoqualmie Valley Youth Activity Center (North Bend)	\$361,000
Soap Lake City Hall Reactivation (Soap Lake)	\$157,000
SoCo Park (Covington)	\$1,300,000
South Bend School Multi-Use Field Upgrades (South Bend)	\$361,000
South Kitsap Community Events Center (Port Orchard)	\$1,236,000
South Kitsap HS Phys Ed Support (Port Orchard)	\$15,000
Southwest Washington Grain Project (Chehalis)	\$1,750,000
Spokane Public Radio (Spokane)	\$1,000,000
Spokane Valley Boys & Girls Club (Spokane Valley)	\$1,030,000
Spokane Valley Fairgrounds Exhibition Center (Spokane Valley)	\$750,000
Sprinkler Recreation Center Outdoor Improvements (Tacoma)	\$400,000
Squire's Landing Park Waterfront & Open Space Access Pr (Kenmore)	\$927,000
Steilacoom Tribal Cultural Center (Steilacoom)	\$814,000
Stonehenge Memorial Public Restroom Project (Maryhill)	\$129,000
Sultan Basin Park Design (Sultan)	\$26,000
Sumas Sidewalks and Trails (Sumas)	\$75,000
Teaching & Commercial Kitchen (Kent)	\$515,000
The Campaign for Wesley Des Moines (Des Moines)	\$500,000
The Eli's Park Project (Seattle)	\$900,000
The Ethiopian Village (Seattle)	\$515,000
The Hilltop (Tacoma)	\$1,545,000
The Landing (Redmond)	\$258,000
The Millworks (Bellingham)	\$1,000,000
The Podium (Spokane)	\$774,000
The Way Station (Bellingham)	\$4,050,000
Therapeutic Play Spaces (Spokane)	\$108,000
Tiny Homes (Seattle)	\$2,000,000
Together Center (Redmond)	\$1,030,000
Toppenish Junior Livestock Facility Planning (Toppenish)	\$21,000
Trails End Community Meeting Space (Tumwater)	\$155,000
Treatment Plant Remodel (Duvall)	\$742,000
Turf Field Lighting (Yakima)	\$500,000
Turning Pointe Youth Advocacy Addition (Shelton)	\$82,000
Twisp Civic Center (Twisp)	\$1,500,000
United Way of King County Building Restoration (Seattle)	\$566,000
University Heights Center Renovation (Seattle)	\$595,000
Upper Kittitas County Medic One - Station 99 (Cle Elum)	\$784,000
Vaughn Library Hall Restoration (Vaughn)	\$103,000
Wards Lake Park Improvement Project (Lakewood)	\$258,000
Water Efficiency Improvements (Royal City)	\$193,000
Wenas Creek Screening, Passage Engineering Design (Selah)	\$150,000
West Biddle Lake Dam Restoration (Vancouver)	\$1,881,000

Whatcom County Integrated Public Safety Radio System (Bellingham)	\$400,000
Woodland Scott Hill Park & Sports Complex (Woodland)	\$600,000
Yakima County Fire Communications Radio Repeaters (Yakima)	\$103,000
Yakima Valley Fair (Grandview)	\$235,000
Yelm Senior Center Repairs (Yelm)	\$36,000
Youth Resource Center (Federal Way)	\$82,000

(b) The funding for the Magnuson Park Historic Hanger 2 (Seattle) project is contingent on the contribution of at least \$6,000,000 for the Magnuson Park Center For Excellence. If the Magnuson Park Center For Excellence has not certified to the department of commerce that the project has secured at least \$6,000,000 in total funding for the capital phase of the project by July 31, 2022, the funds in this subsection (8)(b) shall lapse. The lapse date of July 31, 2022, must be extended to the same extent that the city of Seattle grants an extension, if any, beyond that date for the same project, provided that no further extension may be granted past July 31, 2023. The Magnuson Park Center For Excellence must ensure that the long-term lease with Seattle Parks and Recreation stipulates meaningful public benefits that prioritize low-income, black, indigenous, and people of color youth and families of the Magnuson park and neighborhood and Northeast Seattle. The lease must include provisions to proactively recruit and provide no-cost access to the residents as well as the creation of a scholarship fund dedicated to the residents for the center's events and programming. Additional public benefits to improve accessibility for Magnuson Park residents must be considered in the lease negotiations.

Appropriation:

State Building Construction Account—State	\$160,910,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$160,910,000

NEW SECTION. Sec. 1076. FOR THE DEPARTMENT OF COMMERCE

2021 Local and Community Projects (40000130)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1013, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$23,419,000
Prior Biennia (Expenditures)	\$9,253,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$32,672,000

NEW SECTION. Sec. 1077. FOR THE DEPARTMENT OF COMMERCE

2021-23 Landlord Mitigation Account (40000224)

The appropriation in this section is subject to the following conditions and limitations: \$5,000,000 of the appropriation in this section must be deposited in the landlord mitigation program account.

Appropriation:

State Taxable Building Construction Account—	
State	\$5,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 1078. FOR THE DEPARTMENT OF COMMERCE

Rapid Response Community Preservation Pilot Program (91001278)

Reappropriation:

State Building Construction Account—State	\$1,518,000
Prior Biennia (Expenditures)	\$482,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 1079. FOR THE DEPARTMENT OF COMMERCE

Port Hadlock Wastewater Facility Project (91001545)

Reappropriation:

Public Works Assistance Account—State	\$900,000
Prior Biennia (Expenditures)	\$522,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,422,000

NEW SECTION. Sec. 1080. FOR THE DEPARTMENT OF COMMERCE

Pacific Hospital Preservation and Development Plan (91001544)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1021, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$48,000
Prior Biennia (Expenditures)	\$2,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$50,000

NEW SECTION. Sec. 1081. FOR THE DEPARTMENT OF COMMERCE

2021-23 Dental Capacity Grants (91001660)

The appropriation in this section is subject to the following conditions and limitations:

(1) Funding provided in this section must be used for the construction and equipment directly associated with dental facilities. The funding provided in this section is for projects that are maintained for at least a 10-year period and provide capacity to address unmet patient need and increase efficiency in dental access.

(2) \$5,355,000 of the amount provided in this section is provided solely for the following list of projects:

Dental Expansion for Maple Street Clinic (Spokane)	\$309,000
--	-----------

HealthPoint (Auburn)	\$721,000
HealthPoint (Renton).....	\$309,000
ICHS Holly Park (Seattle).....	\$106,000
ICHS International District (Seattle).....	\$106,000
International Community Health Services (Bellevue).....	\$106,000
International Community Health Services (Shoreline).....	\$106,000
NEW Health CHC Dental Expansion (Newport)	\$1,900,000
Peninsula Community Health Services (Gig Harbor)	\$490,000
Sea Mar Community Health Center (Kent).....	\$1,042,000
Yakima Valley Farm Workers Clinic (Kennewick).....	\$1,030,000

Appropriation:

State Building Construction Account—State	\$6,225,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$6,225,000

NEW SECTION. Sec. 1082. FOR THE DEPARTMENT OF COMMERCE

Substance Use Disorder Recovery Housing (91001675)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for an agreement with Catholic Community Services/Catholic Housing Services to fund a master planning process for the development of a family-centered drug treatment and housing program in western Washington that supports families staying together while they recover from addiction and rebuild their lives. Housing developers, service providers, and other stakeholders must be included in this master planning process.

(2) The master planning process under this section must model the project to be developed after Rising Strong in Spokane and must include units for families that are experiencing substance use disorder and that are involved in the child welfare system. The site must include living quarters for families, space for services, play areas for children, and space for child care. The program services located at the site must include, but are not limited to, case management, counseling, substance use disorder treatment, and parenting skills classes. The site must be located in King County, or located near King county, to provide services to families in the western area of the state.

(3) The master plan developed under this section must be submitted to the appropriate committees of the legislature by December 31, 2021.

Appropriation:

State Building Construction Account—State	\$150,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$150,000

NEW SECTION. Sec. 1083. FOR THE DEPARTMENT OF COMMERCE

2021-23 Early Learning Facilities (91001677)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,089,000 of the state building construction account—state appropriation in this section is provided solely for the following list of early learning facility projects in the following amounts:

Monroe ECEAP Facility (Monroe)	\$361,000
Petah Villages Outdoor Preschool (Renton)	\$370,000
Site Study and Predesign for Two ECEAP Classrooms (Spokane)	\$40,000
Willapa Center (Raymond)	\$318,000

(2) \$23,911,000 of the Ruth Lecocq Kagi early learning facilities development account—state appropriation in this section is provided solely for the early learning facility grant and loan program, subject to the provisions of RCW 43.31.573 through 43.31.583 and 43.84.092, to provide state assistance for designing, constructing, purchasing, expanding, or modernizing public or private early learning education facilities for eligible organizations. Up to four percent of the funding in this subsection may be used by the department of children, youth, and families to provide technical assistance to early learning providers interested in applying for the early learning facility grant or loan program.

(3)(a) \$7,500,000 of the Ruth Lecocq Kagi early learning facilities revolving account—state appropriation in this section is provided solely for the Washington early learning loan fund. Up to four percent of the funding in this appropriation may be used by the contractor to provide technical assistance to early learning providers interested in applying for the early learning facility grant or loan program.

(b) In addition to the reporting requirements in RCW 43.31.573(5), the department must require the contractor to include the following information in the annual reports due to the department:

(i) Audited financial statements or reports independently verified by an accountant showing operating costs, including a clear delineation of the operating costs incurred due to administering grants and loans under this subsection (3);

(ii) Independently verified information regarding the interest rates and terms of all loans provided to early learning facilities under this subsection (3);

(iii) Independently verified or audited information showing all private matching dollars, public matching dollars, and revenues received by the contractor from the repayment of loans, clearly delineating revenues received from the repayment of loans provided under this subsection (3); and

(iv) A forward-looking financial plan that projects the timing and public funding level at which the Washington early learning loan fund will become self-sustaining and will no longer need state matching dollars to provide loans to early learning facilities. The plan must include scenarios based upon a range of state investment in the fund.

(4) The department of children, youth, and families must develop methodology to identify, at the school district boundary level, the geographic locations of where early childhood education and assistance program slots are needed to meet the entitlement specified in RCW 43.216.556. This methodology must be linked to the caseload forecast produced by the caseload forecast council and must include estimates of the number of slots needed at each school district.

This methodology must inform any early learning facilities needs assessment conducted by the department and the department of children, youth, and families. This methodology must be included as part of the budget submittal documentation required by RCW 43.88.030.

(5) When prioritizing areas with the highest unmet need for early childhood education and assistance program slots, the committee of early learning experts convened by the department pursuant to RCW 43.31.581 must first consider those areas at risk of not meeting the entitlement specified in RCW 43.216.556.

(6) The department must track the number of slots being renovated separately from the number of slots being constructed and, within these categories, must track the number of slots separately by program for the working connections child care program and the early childhood education and assistance program.

(7) When prioritizing applications for projects pursuant to RCW 43.31.581, the department must award priority points to applications from a rural county or from extreme child care deserts as defined by the department of children, youth, and families.

(8) The department shall, in consultation with the department of children, youth, and families, prepare a report to the office of financial management and the fiscal committees of the legislature regarding the geographical diversity of early learning facilities grants. The report must be submitted by December 1, 2022, and must provide the following information:

(a) Geographical disbursement of school district early learning grants, early learning facilities grants to eligible organizations, and early learning loans or grants provided by a nongovernmental private-public partnership contracted by the department, including type of grant, size of award, number of early childhood education and assistance program or working connections child care program slots added, and any other information that the department deems relevant;

(b) Disbursement of early learning grants or loans to providers in rural and nonrural counties, including type of grant, size of award, number of early childhood education and assistance program or working connections child care program slots added, and any other information that the department deems relevant; and

(c) Disbursement of early learning grants or loans to providers by type of provider, including school district, child care center, licensed family home, or other, including type of grant, size of award, number of early childhood education and assistance program or working connections child care program slots added, and any other information that the department deems relevant.

Appropriation:

State Building Construction Account—State	\$1,089,000
Early Learning Facilities Revolving Account—	
State	\$7,500,000
Early Learning Facilities Development Account—	
State	\$23,911,000
Subtotal Appropriation	\$32,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$32,500,000

NEW SECTION. Sec. 1084. FOR THE DEPARTMENT OF COMMERCE

Food Banks (91001690)

The appropriation in this section is subject to the following conditions and limitations:

(1) The department may not expend the appropriation in this section unless and until the nonstate share of project costs have been either expended or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature. This requirement does not apply to projects where a share of the appropriation is for design costs only.

(2) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of 10 years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations in which the sole purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high-performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and may not be advanced under any circumstances.

(5) In contracts for grants authorized under this section, the department must include provisions that require 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.

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) The department must comply with the requirements set forth in executive order 21-02 and must consult with the department of archaeology and historic preservation and affected tribes on the potential effects of these projects on cultural resources and historic properties. Consultation with the department of archaeology and historic preservation and affected tribes must be initiated before project funds are made available.

(8) The appropriation in this section is provided solely for the following list of projects:

FISH Community Food Bank and Food Pantry (Ellensburg)	\$1,545,000
Gig Harbor Peninsula FISH New Facility Construction (Gig Harbor)	\$2,050,000
Hunger Solution Center Cold Storage Expansion (Seattle).	\$827,000
Issaquah Food Bank Expansion (Issaquah)	\$1,030,000

La Center Community Center Repairs and Improvements (La Center)	\$515,000
Port Angeles Food Bank (Port Angeles)	\$1,050,000
Puyallup Food Bank Capital Campaign (Puyallup).	\$257,000
White Center Food Bank Relocation (Seattle)	\$1,030,000

Appropriation:

State Building Construction Account—State	\$8,304,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,304,000

NEW SECTION. Sec. 1085. FOR THE DEPARTMENT OF COMMERCE

Infrastructure Projects (91001687)

The appropriation in this section is subject to the following conditions and limitations:

(1) The department may not expend the appropriation in this section unless and until the nonstate share of project costs have been either expended or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature. This requirement does not apply to projects where a share of the appropriation is for design costs only.

(2) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of 10 years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations in which the sole purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high-performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and may not be advanced under any circumstances.

(5) In contracts for grants authorized under this section, the department must include provisions that require 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.

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) The department must comply with the requirements set forth in executive order 21-02 and must consult with the department of archaeology and historic preservation and affected tribes on the potential effects of these projects on cultural resources and historic properties. Consultation with the department of archaeology and historic preservation and affected tribes must be initiated before project funds are made available.

(8) To ensure compliance with conditions of the federal coronavirus state fiscal recovery fund, all expenditures of amounts appropriated in this section must be incurred by December 31, 2024.

(9) The appropriation in this section is provided solely for the following list of projects:

Airway Heights Water Resources Replacement (Airway Heights)	\$14,950,000
Anderson Road Project Design (Chelan).	\$258,000
Belfair Water Reclamation Facility (Belfair).	\$500,000
Boat Haven Stormwater Improvement (Port Townsend)	\$2,050,000
Centralia School District - Gemini & LTE (Centralia).	\$1,529,000
Cheney Purple Pipe Project (Cheney).	\$11,050,000
City of Fircrest Water Meter Replacement (Fircrest).	\$171,000
City of Ilwaco - Drinking Water Source Protection (Ilwaco).	\$721,000
Crusher Canyon Sewer Line (Selah).	\$1,000,000
Dryden Wastewater Improvement Project (Dryden).	\$1,030,000
Fall City Waste Management System (Fall City)	\$6,500,000
Fry Creek Pump Station (Aberdeen)	\$8,975,000
Index Phased Water Line Replacement (Index)	\$1,351,000
Lacamas Lake Management Plan (Camas)	\$155,000
Leach Creek Interceptor Extension (University Place)	\$2,100,000
Louis Thompson Road Tightline (Sammamish)	\$3,000,000
Malaga Industrial Park Waterline Extension (Malaga)	\$1,545,000
Malden USDA Water (Malden).	\$247,000
Mill Creek Flood Control Channel (Walla Walla).	\$1,545,000
NE 92nd Avenue Pump Station & Force Main (Battle Ground).	\$2,050,000
New Well for the Community of Peshastin (Peshastin)	\$1,100,000
Omak Water Reservoir (Omak).	\$4,300,000
Othello Water Conservation System (Othello)	\$515,000
Packwood Sewer System (Packwood).	\$8,050,000
PFAS Treatment at City of DuPont Water Wells (DuPont)	\$5,950,000
Port Hadlock Wastewater Facility (Port Hadlock)	\$20,175,000
Port of Mattawa Wastewater Infrastructure (Mattawa)	\$618,000
Reservoir No. 2, Water Supply & Distribution (Bridgeport)	\$3,200,000
Shelton: Well 1 Water Main (Shelton).	\$2,050,000
Skamania County Well Installation (Stevenson)	\$52,000
Vader Wastewater Treatment Plant Improvements (Vader)	\$1,850,000
Wallula Dodd Water System Ph2 (Wallula).	\$2,050,000
Wanapum Indian Village Fiber infrastructure	

Project (Mattawa).....	\$155,000
Water Main Infrastructure Extension Project (George)	\$155,000
WWTP Reclaimed Water (Shelton).....	\$2,050,000

Appropriation:

Coronavirus State Fiscal Recovery Account—	
Federal	\$112,997,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$112,997,000

NEW SECTION. Sec. 1086. FOR THE DEPARTMENT OF COMMERCE

2021-23 Broadband Office (92000953)

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) The appropriations in this section are provided solely to the statewide broadband office for qualifying broadband infrastructure projects.

(b) Unless otherwise stated, eligible applicants for grants awarded under subsections (2) and (3) of this section are:

- (i) Local governments, including ports and public utility districts;
- (ii) Federally recognized tribes;
- (iii) Nonprofit organizations;
- (iv) Nonprofit cooperative organizations; and

(v) Multiparty entities comprised of a combination of public entity members or private entity members. A multiparty entity cannot be solely comprised of private entities.

(c) Projects receiving grants under this section must:

(i) Demonstrate that the project site is under the applicant's control for a minimum of 25 years, either through ownership or a long-term lease; and

(ii) Commit to using the infrastructure funded by the grant for the purposes of providing broadband connectivity for a minimum of 25 years.

(d) Unless otherwise stated, priority must be given to projects:

(i) Located in unserved areas of the state, which for the purposes of this section means areas of Washington in which households and businesses lack access to broadband service of speeds at a minimum of 100 megabits per second download and at a minimum 20 megabits per second upload;

(ii) Located in geographic areas of greatest priority for the deployment of broadband infrastructure to achieve the state's broadband goals, as provided in RCW 43.330.536, identified with department and board mapping tools; or

(iii) That construct last mile infrastructure, as defined in RCW 43.330.530.

(e) Unless otherwise stated, appropriations may not be used for projects where a broadband provider currently provides, or has begun construction to provide, broadband service to end users in the proposed project area at speeds equal to or greater than the state speed goals provided in RCW 43.330.536.

(f) The appropriations must be used for projects that use a technology-neutral approach in order to expand access at the lowest cost to the most unserved or underserved residents.

(g)(i) The statewide broadband office must act as fiscal agent for the grants authorized in subsections (2) and (3) of this section.

(ii) No more than 1.5 percent of the funds appropriated for the program may be expended by the statewide broadband office for administration purposes.

(2)(a) \$50,000,000 of the state building construction account—state appropriation is provided solely to the statewide broadband office to award as grants to eligible applicants as match funds to leverage federal broadband infrastructure program funding.

(b)(i) For the purposes of this subsection (2), "state broadband infrastructure funders" are the state broadband office, the public works board, and the community economic revitalization board.

(ii) The statewide broadband office must develop a project evaluation process to assist in coordination among state broadband infrastructure funders to maximize opportunities to leverage federal funding and ensure efficient state investment. The project evaluation process must help determine whether a project is a strong candidate for a known federal funding opportunity and if a project can be packaged as part of a regional or other coordinated federal grant proposal. The state broadband infrastructure funders are encouraged to enter into a memorandum of understanding outlining how coordination will take place so that the process can help with a coordinated funding strategy across these entities.

(3)(a) \$260,003,000 of the coronavirus state fiscal recovery fund—federal appropriation and \$16,000,000 of the coronavirus capital projects account—federal appropriation are provided solely for grants to eligible applicants for qualifying broadband infrastructure projects.

(b)(i) Projects that receive grant funding under this subsection (3) must be eligible for funds under section 9901 of the American rescue plan act.

(ii) To ensure compliance with conditions of the federal coronavirus state fiscal recovery fund, all expenditures of amounts appropriated in this subsection (3) must be incurred by December 31, 2024.

(c)(i) \$5,000,000 of the appropriation in this subsection is provided for broadband equity and affordability grants.

(ii) Grants must be provided to eligible applicants located in areas:

(A) With existing broadband service with speeds at a minimum of 100 megabits per second download and at a minimum 20 megabits per second upload; and

(B) Where the state broadband office, in consultation with the department of equity, determine that access to existing broadband service is not affordable or equitable.

(iii) Eligible applicants for grants awarded under this subsection (3)(c) are:

(A) Local governments, including ports and public utility districts;

(B) Federally recognized tribes;

(C) Public school districts;

(D) Nonprofit organizations; and

(E) Multiparty entities comprised of public entity members to fund broadband deployment.

(d) \$258,000 of the coronavirus capital projects account—federal appropriation in this subsection is provided solely for the Precision Agriculture and Broadband pilot project.

(4) By January 30, 2022, and January 30, 2023, the statewide broadband office must develop and submit a report regarding the grants established in subsections (2) and (3) of this section to the office of financial management and appropriate fiscal committees of the legislature. The report must include:

- (a) The total number of applications and amount of funding requested;
- (b) A list and description of projects approved for grant funding in the preceding fiscal year;
- (c) The total amount of grant funding that was disbursed during the preceding fiscal year;
- (d) The total amount of funds obligated and timing of when the funds were obligated in the preceding fiscal year; and
- (e) For projects funded in the prior biennium, the outcomes achieved by the approved projects.

(5) For eligible applicants providing service outside of their jurisdictional boundary, no more than three percent of the award amount may be expended for administration purposes.

Appropriation:

State Building Construction Account—State	\$50,000,000
Coronavirus State Fiscal Recovery Account—	
Federal	\$260,003,000
Coronavirus Capital Projects Account—Federal.	\$16,000,000
Subtotal Appropriation	\$326,003,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$326,003,000

NEW SECTION. Sec. 1087. FOR THE DEPARTMENT OF COMMERCE

2021-23 Community Relief (92000957)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$500,000 of the state taxable building construction account—state appropriation is provided solely for the department to contract with the Communities of Concern Commission for development of a list of community-led capital projects that serve underserved communities. Eligible expenses include costs incurred by the Communities of Concern Commission in conducting outreach, developing an application process, providing technical assistance, assisting project proponents with project readiness, and assisting the department with identifying barriers faced in accessing capital grant programs. The department must present the list prepared by the Communities of Concern Commission to the fiscal committees of the legislature for consideration for funding in the 2022 supplemental capital budget with the list of identified projects. \$2,500,000 of the appropriation in this subsection (1) shall remain in unallotted status for purposes of legislative review of the joint list prepared by the Communities of Concern Commission and the department until the legislature appropriates funds for these projects in the budget process. The legislature retains the right to review and consider all such funding as it does with other requests for project funding. The intent of the legislature is to only provide funding in the 2021-2023 fiscal biennium in order to inform the

department's comprehensive equity review required in the operating budget and allow the opportunity for the department to implement the steps necessary to improve equitable delivery of all of their capital grant programs. The department must submit an interim report to the legislature by December 31, 2021, on the barriers identified and lessons learned through projects identified through this section and in section 1093 of this act and the connection to the equity review required in the operating budget.

(2)(a) The appropriation is provided solely for the following list of projects:

?al?al (means "Home" in Lushootseed) (Seattle)	\$900,000
Asberry Historic Home Site Acquisition (Tacoma).	\$919,000
Be'er Sheva Park Improvements and Shoreline Restoration (Seattle).	\$500,000
Cham Community Center (CCC) (Seattle)	\$515,000
Communities of Concern Commission (Seattle).	\$3,000,000
Elevate Youngstown Capital Project (Seattle).	\$515,000
Feast Collective Capital Request (Spokane)	\$103,000
Feeding Change Campaign (Seattle)	\$1,000,000
Khmer Community Center & Cultural Hub (Seattle)	\$309,000
Neighborhood House Early Learning Facilities (Seattle)	\$2,050,000
Shiloh Baptist Housing Development Project (Tacoma).	\$2,100,000
Skyway Resource Center Renovation Project (Seattle).	\$400,000
Wadajir Residences & Souq (Tukwila)	\$1,339,000

(b) For the Asberry Historic Home Site Acquisition, the department must work with the department of archaeology and historic preservation and the grantee to develop a historic preservation easement. The easement must be held through the department of archaeology and historic preservation and must be placed on the title in perpetuity.

Appropriation:

State Building Construction Account—State	\$13,150,000
State Taxable Building Construction Account— State	\$500,000
Subtotal Appropriation	\$13,650,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,650,000

NEW SECTION. Sec. 1088. FOR THE DEPARTMENT OF COMMERCE

Reimann Roads, Telecomm and Utility Relocation (Pasco) (92001004)

The appropriation in this section is subject to the following conditions and limitations: The department shall not release funds to reimburse the port of Pasco for infrastructure development at the Reimann industrial park unless the port has signed an agreement with a large-scale food processor. If the port has not signed an agreement for use of the Reimann industrial park by December 31, 2022, the amount provided in this section shall lapse.

Appropriation:

State Building Construction Account—State	\$7,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0

TOTAL \$7,500,000

NEW SECTION. Sec. 1089. FOR THE DEPARTMENT OF COMMERCE

Child Care Minor Renovation Grants (92001109)

The appropriation in this section is subject to the following conditions and limitations:

\$10,000,000 of the appropriation is provided solely for the department to provide grants to child care providers for minor renovations and small capital purchases and projects. The grants are intended to support child care providers so that they may maintain operations or expand operations during and after the COVID-19 public health emergency.

(1) The department shall collaborate with the department of children, youth, and families to conduct outreach to licensed family homes to ensure they are made aware of the grant opportunity.

(2) The department shall give priority to projects that make minor renovations without adding capacity and are therefore ineligible for the early learning facilities program.

(3) All grants provided in this section must be awarded by September 30, 2022.

(4) Of the amounts provided in this section, no more than four percent may be retained by the department for administrative purposes.

Appropriation:

General Fund—Federal	\$10,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$10,000,000

NEW SECTION. Sec. 1090. FOR THE DEPARTMENT OF COMMERCE

Increasing Housing Inventory (92001122)

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) The appropriation in this section is provided solely for grants to cities to facilitate transit-oriented development and may be used to pay for the costs associated with the preparation of state environmental policy act environmental impact statements, planned action ordinances, subarea plans, costs associated with the use of other tools under the state environmental policy act, and the costs of local code adoption and implementation of such efforts.

(b) Grant awards may only fund efforts that address environmental impacts and consequences, alternatives, and mitigation measures in sufficient detail to allow the analysis to be adopted in whole or in part by applicants for development permits within the geographic area analyzed in the plan.

(2) The department shall prioritize applications for grants to facilitate transit-oriented development that maximize the following policy objectives in the area covered by a proposal:

- (a) The total number of housing units authorized for new development;
- (b) The proximity and quality of transit access in the area;
- (c) Plans that authorize up to six stories of building height;

- (d) Plans that authorize ground floor retail with housing above;
 - (e) Plans in areas that minimize or eliminate on-site parking requirements;
 - (f) Existence or establishment of incentive zoning, mandatory affordability, or other tools to promote low-income housing in the area;
 - (g) Plans that include dedicated policies to support public or nonprofit funded low-income or workforce housing; and
 - (h) Plans designed to maximize and increase the variety of allowable housing types and expected sale or rental rates.
- (3) For purposes of this section, "transit access" includes walkable access to:
- (a) Light rail and other fixed guideway rail systems;
 - (b) Bus rapid transit;
 - (c) High frequency bus service; or
 - (d) Park and ride lots.

Appropriation:

State Building Construction Account—State	\$2,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,500,000

NEW SECTION. Sec. 1091. FOR THE DEPARTMENT OF COMMERCE

Enhanced Shelter Capacity Grants (92000939)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1022, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$6,318,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,318,000

NEW SECTION. Sec. 1092. FOR THE DEPARTMENT OF COMMERCE

Work, Education, Health Monitoring Projects (91001686)

The appropriation in this section is subject to the following conditions and limitations:

(1) The department may not expend the appropriation in this section unless and until the nonstate share of project costs have been either expended or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature. This requirement does not apply to projects where a share of the appropriation is for design costs only.

(2) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of 10 years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations in which the sole purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high-performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and may not be advanced under any circumstances.

(5) In contracts for grants authorized under this section, the department must include provisions that require 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.

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) The department must comply with the requirements set forth in executive order 21-02 and must consult with the department of archaeology and historic preservation and affected tribes on the potential effects of these projects on cultural resources and historic properties. Consultation with the department of archaeology and historic preservation and affected tribes must be initiated before project funds are made available.

(8) \$926,000 of the coronavirus capital projects account—federal appropriation is provided solely for the following list of projects:

Camp Waskowitz Restrooms (North Bend)	\$250,000
Mary's Place Burien Shelter COVID Updates (Seattle)	\$550,000
Nordic Heritage Museum HVAC Renovation (Seattle)	\$26,000
Shewood COVID Mitigation (Lake Stevens)	\$100,000

Appropriation:

Coronavirus Capital Projects Account—Federal	\$926,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$926,000

NEW SECTION. Sec. 1093. FOR THE DEPARTMENT OF COMMERCE

Capital Grant Program Equity (91001688)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation in this section is provided solely for the department to provide planning, technical assistance, and predesign grants for projects that would directly benefit populations and communities that have been historically underserved by capital grant policies and programs. It is the intent of the legislature that these grants be available for: (1) Early action on, and in response to, the comprehensive equity review required of the department during the 2021-2023 fiscal biennium; and (2) for reduction of barriers to participation in capital grant programs administered by the department due to race, ethnicity, religion, income, geography, disability, or educational attainment. In awarding grants

under this section, the department shall prioritize applications that would directly benefit racially diverse neighborhoods within dense urban areas and small, rural communities where these grants would redress historic and systemic barriers to these communities' participation in capital grant programs. In ranking and sizing grants directly benefiting these groups, the department shall also consider the financial capacity of the applicant and of the community that the grant would benefit. The intent of the legislature is to only provide funding in the 2021-2023 fiscal biennium in order to inform the department's comprehensive equity review required in the operating budget and allow the opportunity for the department to implement the steps necessary to improve equitable delivery of all of their capital grant programs.

Appropriation:

State Building Construction Account—State	\$5,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 1094. FOR THE DEPARTMENT OF COMMERCE

Early Learning COVID-19 Renovation Grants (91001681)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$8,500,000 of the coronavirus capital projects account—federal appropriation is provided solely for the Washington early learning loan fund to provide grants to early learning facilities for emergency renovation and remodeling changes in response to the public health emergency with respect to the coronavirus disease.

(2) The grants may not be used for operating expenditures, but must be used for capital needs to:

- (a) Support increased social distancing requirements;
 - (b) Support increased health and safety measures;
 - (c) Provide increased outdoor space; or
 - (d) Increase or preserve early learning slots within a facility or community.
- (3) Grant recipients must meet the requirements in RCW 43.31.575.

(4) Up to four percent of the funding in this appropriation may be used by the contractor to provide technical assistance to early learning providers interested in applying for the early learning facility grant or loan program.

Appropriation:

Coronavirus Capital Projects Account—Federal.	\$8,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,500,000

NEW SECTION. Sec. 1095. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Cowlitz River Dredging (20082856)

The appropriations in this section are subject to the following conditions and limitations: The appropriation in this section is provided solely for the office of financial management to acquire land and rights of way along the Cowlitz

river for the United States army corps of engineers to dredge. The land is necessary for dredged material deposit sites for the Mt. St. Helen's flood protection project.

Reappropriation:

State Building Construction Account—State \$800,000

Appropriation:

State Building Construction Account—State \$1,200,000

Prior Biennia (Expenditures) \$700,000

Future Biennia (Projected Costs) \$0

TOTAL \$2,700,000

NEW SECTION. Sec. 1096. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Oversight of State Facilities (30000039)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the office of financial management to cover staffing costs of the facilities oversight team.

Appropriation:

Thurston County Capital Facilities—State \$2,610,000

Prior Biennia (Expenditures) \$4,769,000

Future Biennia (Projected Costs) \$10,440,000

TOTAL \$17,819,000

NEW SECTION. Sec. 1097. FOR THE OFFICE OF FINANCIAL MANAGEMENT

OFM Capital Budget Staff (30000040)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the office of financial management to cover staffing costs of the capital budget team.

Appropriation:

Thurston County Capital Facilities—State \$1,315,000

Prior Biennia (Expenditures) \$2,469,000

Future Biennia (Projected Costs) \$5,260,000

TOTAL \$9,044,000

NEW SECTION. Sec. 1098. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Emergency Repairs (30000041)

The appropriation in this section is subject to the following conditions and limitations:

(1) Emergency repair funding is provided solely to address unexpected building or grounds failures that will impact public health and safety and the day-to-day operations of the facility. To be eligible for funds from the emergency repair pool, a request letter for emergency funding signed by the affected agency director must be submitted to the office of financial management and the appropriate legislative fiscal committees. The request must include a statement describing the health and safety hazard and impacts to facility operations, the

possible cause, the proposed scope of emergency repair work and related cost estimate, and identification of other funding that may be applied to the project.

(2) For emergencies occurring during a legislative session, an agency must notify the legislative fiscal committees before requesting emergency funds from the office of financial management.

(3) The office of financial management must notify the legislative evaluation and accountability program committee and the legislative fiscal committees as emergency projects are approved for funding and include what funded level was approved.

(4) The office of financial management must report quarterly, beginning October 1, 2021, on the funding approved by agency and by emergency to the fiscal committees of the legislature.

Appropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	\$20,000,000

NEW SECTION. Sec. 1099. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Construction Cost Assessment (40000002)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for the office of financial management to review the existing formulas for state agency cost estimating to ensure they accurately reflect project costs for standard and alternative public works project delivery. The scope of the review must include, at a minimum, construction cost escalation, project management fees, the architectural and engineering fee schedule, consultant extra services, and project contingencies. The office of financial management shall confer with legislative staff, agencies with public works contracting authority, and the capital projects advisory review board on the scope and elements of the review.

(2) Before implementing the recommendations, the office of financial management shall report to the senate ways and means committee and the house capital budget committee by May 31, 2022, on recommended changes to the cost estimating methodology as a result of the construction cost assessment and the potential impact to future agency capital budget requests. A preliminary report must be submitted by January 31, 2022.

Appropriation:

Thurston County Capital Facilities—State	\$300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$300,000

NEW SECTION. Sec. 1100. FOR THE OFFICE OF FINANCIAL MANAGEMENT

Fircrest School Land Use Assessment (92000035)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely for a contract with the independent consultant that conducted the land use assessment to assist the

department of social and health services in their land use negotiations with the city of Shoreline.

Reappropriation:

State Building Construction Account—State	\$211,000
Prior Biennia (Expenditures)	\$289,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 1101. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Capitol Lake Long-Term Management Planning (30000740)

The appropriations in this section are subject to the following conditions and limitations: The appropriations and reappropriation are subject to the provisions of section 1026, chapter 356, Laws of 2020.

Reappropriation:

General Fund—Private/Local	\$156,000
State Building Construction Account—State	\$1,663,000
Subtotal Reappropriation	\$1,819,000

Appropriation:

State Building Construction Account—State	\$715,000
Prior Biennia (Expenditures)	\$4,165,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,699,000

NEW SECTION. Sec. 1102. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Elevator Modernization (30000786)

The appropriations in this section are subject to the following conditions and limitations:

(1) The reappropriation is subject to the provisions of section 1075, chapter 413, Laws of 2019.

(2) The appropriation is provided solely for elevator modernizations. The funding is to modernize one elevator, which must be selected and prioritized based on safety and security.

Reappropriation:

State Building Construction Account—State	\$2,102,000
---	-------------

Appropriation:

Thurston County Capital Facilities Account—State	\$1,300,000
Prior Biennia (Expenditures)	\$989,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,391,000

NEW SECTION. Sec. 1103. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Campus Physical Security & Safety Improvements (30000812)

Reappropriation:

Capitol Building Construction Account—State	\$1,462,000
State Building Construction Account—State	\$2,500,000
Thurston County Capital Facilities Account—State	\$1,710,000

Subtotal Reappropriation	\$5,672,000
Prior Biennia (Expenditures)	\$604,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,276,000

NEW SECTION. Sec. 1104. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Statewide Minor Works - Preservation Projects (30000825)

Reappropriation:

State Building Construction Account—State	\$170,000
Prior Biennia (Expenditures)	\$3,416,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,586,000

NEW SECTION. Sec. 1105. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Facility Professional Services: Staffing (40000225)

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section are provided solely for architectural and engineering services to manage public works contracting for all state facilities pursuant to RCW 43.19.450.

(2) At the end of each fiscal year, the department must report to the office of financial management and the fiscal committees of the legislature on performance, including the following:

(a) The number of projects managed by each manager by fiscal year;

(b) The number of projects managed by each manager compared to the prior fiscal year by the same manager;

(c) The number of project predesigns completed on time, reported by project, by fiscal year, by manager, and in total;

(d) The number of project designs completed on time, reported by project, by fiscal year, by manager, and in total;

(e) The number of project constructions completed on time, reported by project, by fiscal year, by manager, and in total;

(f) Projects that were not completed on schedule, how many months delayed they were, and the reasons for the delays;

(g) The number and cost of the change orders and the reason for each change order;

(h) The number of facility professional staff by classification assigned by project to include the budget, actual staffing used, and the number of vacancies by classification; and

(i) A list of the interagency agreements executed with state agencies during the 2021-2023 fiscal biennium to provide staff support to state agencies that is over and above the allocation provided in this section. The list must include the agency, the amount of dollars by fiscal year, and the rationale for the additional service.

(3) At least twice per year, the department shall convene a group of private sector architects, contractors, state agency facilities personnel, and legislative fiscal staff to share, at a minimum, information on high performance methods, ideas, operating and maintenance issues, and costs. The facilities personnel must

be from the community and technical colleges, the four-year institutions of higher education, and any other state agencies that have recently completed a new building or are currently in the design or construction phase.

Appropriation:

State Building Construction Account—State	\$20,215,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$60,000,000
TOTAL	\$80,215,000

NEW SECTION. Sec. 1106. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Legislative Building Exterior Preservation Cleaning (40000033)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1083(1), chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$1,470,000
Prior Biennia (Expenditures).....	\$1,930,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$3,400,000

NEW SECTION. Sec. 1107. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

2019-21 Statewide Minor Works - Programmatic Projects (40000141)

Reappropriation:

State Building Construction Account—State	\$481,000
Prior Biennia (Expenditures).....	\$15,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$496,000

NEW SECTION. Sec. 1108. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

SEEP: EVSE at State Facilities (40000161)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation is provided solely for electric vehicle service equipment infrastructure on the capitol campus to accommodate charging station installation. The electric vehicle charging equipment works toward state efficiency and environmental performance and the department must prioritize locations to complete work by June 30, 2022.

(2) The department must report where the equipment was installed, by address, in fiscal year 2020, fiscal year 2021, and where it will be installed in fiscal years 2022 and 2023, to the fiscal committees of the legislature by June 30, 2023.

Reappropriation:

Thurston County Capital Facilities—State	\$285,000
Prior Biennia (Expenditures).....	\$215,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 1109. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

21-31 Statewide Minor Works - Preservation (40000180)

Appropriation:

State Building Construction Account—State	\$887,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$11,442,000
TOTAL	\$12,329,000

NEW SECTION. Sec. 1110. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Capitol Campus Security & Safety Enhancements (40000226)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,155,000 of the state building construction account—state appropriation is provided solely for security improvements to exterior doors. The exterior doors must be prioritized based on safety and security. The department must keep senate and house security informed and must coordinate on plans and schedule with them for, at least, west capitol campus.

(2) \$1,885,000 of the state building construction account—state appropriation is provided solely for security improvements to the fencing, gates, and bollards surrounding the executive residence.

(3) \$2,017,000 of the state building construction account—state appropriation is provided solely for security improvements to the video surveillance and lighting surrounding the executive residence.

(4) \$1,000,000 of the state building construction account—state appropriation is provided solely for vehicle access control and must be used only for:

- (a) A hydraulic wedge barrier on Sid Snyder; and
- (b) A hydraulic wedge barrier on Water Street.

Appropriation:

State Building Construction Account—State	\$6,057,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$6,057,000

NEW SECTION. Sec. 1111. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Legislative Campus Modernization (92000020)

The appropriations in this section are subject to the following conditions and limitations:

(1) The reappropriations are subject to the provisions of section 6024 of this act.

(2) The department must consult with the senate facilities and operations committee or its designee(s) and the house of representatives executive rules committee or its designee(s) at least every other month.

(3) \$11,585,000 of the Thurston county capital facilities account—state appropriation is provided solely for the global legislative campus modernization subproject, which includes, but is not limited to, modular building leases or

purchases and associated costs, site development work on campus to include Columbia street, stakeholder outreach, and historic mitigation for the project.

(4) \$69,037,000 of the amount provided in this section is provided solely for Irv Newhouse building replacement design and construction on opportunity site six.

(a) The department must:

(i) Have a design contractor selected by September 1, 2021;

(ii) Start design validation by October 1, 2021; and

(iii) Start design by December 1, 2021.

(b) The design and construction must result in:

(i) A high performance building that meets net-zero-ready energy standards, with an energy use intensity of no greater than 35;

(ii) Sufficient program space required to support senate offices and support functions;

(iii) A building façade similar to the American neoclassical style with a base, shaft, and capital expression focus with some relief expressed in modern construction methods to include adding more detailing and depth to the exterior so that it will fit with existing legislative buildings on west capitol campus, like the John Cherberg building;

(iv) Member offices of similar size as member offices in the John A. Cherberg building;

(v) Demolition of the buildings located on opportunity site six;

(vi) Consultation with the leadership of the senate, or their designee(s), at least every month, effective July 1, 2021; and

(vii) Ensure the subproject meets legislative intent to complete design by April 30, 2023, and start construction by September 1, 2023.

(5) \$8,538,000 of the amount provided in this section is provided solely for Pritchard building design. The design contractor must be selected by January 1, 2023, and the design must result in:

(a) A high performance building that meets net-zero-ready energy standards, with an energy use intensity of no greater than 35;

(b) Sufficient program space required to support house of representatives offices and support functions; and

(c) Additional office space necessary to offset house of representatives members and staff office space that may be eliminated in the renovation of the third and fourth floors of the John L. O'Brien building.

(6) All appropriations must be coded and tracked as separate discrete subprojects in the agency financial reporting system.

(7) The state capitol committee, in consultation with capitol campus design advisory committee, may review architectural design proposals for continuity with the 2006 master plan for the capitol of the state of Washington and 2009 west capitol campus historic landscape preservation and vegetation management plan. As part of planning efforts, the state capitol committee may conduct a review of current design criteria and standards.

(8) The Irv Newhouse building replacement and Pritchard building designs should include an analysis of comprehensive impacts to the campus and the surrounding neighborhood, an evaluation of future workforce projections and an analysis of traffic impacts, parking needs, visual buffers, and campus aesthetics.

The designs should include a public engagement process including the capitol campus design advisory committee and state capitol committee.

(9) \$180,000 of the appropriation in this section is provided solely for the department to conduct a preservation study of the Pritchard building as a continuation of the predesign in section 6024 of this act. The study must include an analysis of seismic, geotechnical, building codes, constructability, and costs associated with renovation and expansion of the Pritchard building to accommodate tenant space needs. The department shall contract with a third-party historic preservation specialist to ensure the study is in compliance with the secretary of the interior's standards and any other applicable standards for historic rehabilitation. The study must include a public engagement process including the capitol campus design advisory committee and state capitol committee. The study is subject to review and approval by the state capitol committee by March 31, 2022, to inform the design of a renovation, expansion, or replacement of the Pritchard building.

(10) The department may sell by auction the Ayers and Carlyon houses, known as the press houses, separate and apart from the underlying land, subject to the following conditions:

(a) The purchaser, at its sole cost and expense, must remove the houses by December 31, 2021;

(b) The state is not responsible for any costs or expenses associated with the sale, removal, or relocation of the buildings from opportunity site six; and

(c) Any sale proceeds must be deposited into the Thurston county capital facilities account.

(11) Implementation of subsections (7) through (10) of this section is not intended to delay the design and construction of any of the subprojects included in the legislative campus modernization project.

Reappropriation:

State Building Construction Account—State \$9,900,000

Appropriation:

State Building Construction Account—State \$67,855,000

Thurston County Capital Facilities Account—State

\$11,585,000

Subtotal Appropriation \$79,440,000

Prior Biennia (Expenditures) \$596,000

Future Biennia (Projected Costs) \$90,812,000

TOTAL \$180,748,000

NEW SECTION. Sec. 1112. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Legislative Building Cleaning (92000028)

The appropriations in this section are subject to the following conditions and limitations: The appropriation and reappropriation are subject to the provisions of section 1091, chapter 413, Laws of 2019. The funding provided in the 2021-2023 fiscal biennium must be used for the John A. Cherberg building.

Reappropriation:

State Building Construction Account—State \$987,000

Appropriation:

Thurston County Capital Facilities Account—State

	\$1,593,000
Prior Biennia (Expenditures)	\$513,000
Future Biennia (Projected Costs)	\$7,537,000
TOTAL	\$10,630,000

NEW SECTION. Sec. 1113. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Insurance Commissioner Office Building Predesign (92000029)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1028, chapter 356, Laws of 2020.

Reappropriation:

Insurance Commissioner's Regulatory Account—	
State	\$14,000
Prior Biennia (Expenditures)	\$286,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$300,000

NEW SECTION. Sec. 1114. FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Temple of Justice HVAC, Lighting & Water Systems (92000040)

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) To assist in funding this project, the department must work with the office of financial management to access federal funding for the total project cost.

(b) If the agency receives more than \$26,000,000 in federal funds, an amount of the state building construction account—state appropriation equal to the additional federal funds must be placed in unallotted status.

(c) For purposes of this subsection, "additional federal funds" means the difference between the total amount of federal funds received under (a) of this subsection and \$26,000,000.

(2) The department must:

(a) Submit the final predesign to the office of financial management by June 1, 2021;

(b) Submit the final energy services proposal to the senate ways and means committee and the house capital budget committee prior to the department starting the design phase; and

(c) Start design by August 31, 2021.

Appropriation:

State Building Construction Account—State	\$4,000,000
Coronavirus Capital Projects Account—Federal.	\$26,000,000
Subtotal Appropriation	\$30,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$30,000,000

NEW SECTION. Sec. 1115. FOR THE MILITARY DEPARTMENT

Joint Force Readiness Center: Replacement (30000591)

Appropriation:

State Building Construction Account—State	\$300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$43,485,000
TOTAL	\$43,785,000

NEW SECTION. Sec. 1116. FOR THE MILITARY DEPARTMENT

King County Area Readiness Center (30000592)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation in this section is provided solely to acquire land in King county for a readiness center and to complete a predesign. The predesign must include identification of water supply mitigation that may be used to offset water supply impacts to the city of North Bend that would result from the water use of the future readiness center. If the department has not signed a purchase and sale agreement by June 30, 2023, the amounts provided in this section shall lapse. The department must work to secure federal funding to cover a portion of the costs for design and construction.

Reappropriation:

State Building Construction Account—State	\$7,030,000
Prior Biennia (Expenditures)	\$25,000
Future Biennia (Projected Costs)	\$100,500,000
TOTAL	\$107,555,000

NEW SECTION. Sec. 1117. FOR THE MILITARY DEPARTMENT

Tactical Unmanned Aircraft System (TUAS) (30000596)

Appropriation:

General Fund—Federal	\$14,800,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$14,800,000

NEW SECTION. Sec. 1118. FOR THE MILITARY DEPARTMENT

Tri-Cities Readiness Center (30000808)

Reappropriation:

General Fund—Federal	\$10,500,000
State Building Construction Account—State	\$3,200,000
Subtotal Reappropriation	\$13,700,000
Prior Biennia (Expenditures)	\$3,464,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$17,164,000

NEW SECTION. Sec. 1119. FOR THE MILITARY DEPARTMENT

Kent Readiness Center (30000917)

Reappropriation:

General Fund—Federal	\$4,150,000
State Building Construction Account—State	\$380,000
Subtotal Reappropriation	\$4,530,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,530,000

NEW SECTION. Sec. 1120. FOR THE MILITARY DEPARTMENT

Snohomish Readiness Center (30000930)

Appropriation:

General Fund—Federal	\$3,562,000
State Building Construction Account—State	\$1,188,000
Subtotal Appropriation	\$4,750,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,750,000

NEW SECTION. Sec. 1121. FOR THE MILITARY DEPARTMENT

Anacortes Readiness Center Major Renovation (40000004)

Reappropriation:

Military Department Capital Account—State	\$75,000
---	----------

Appropriation:

General Fund—Federal	\$3,551,000
State Building Construction Account—State	\$3,551,000
Subtotal Appropriation	\$7,102,000
Prior Biennia (Expenditures)	\$75,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,252,000

NEW SECTION. Sec. 1122. FOR THE MILITARY DEPARTMENT

Minor Works Preservation 2019-21 Biennium (40000036)

Reappropriation:

General Fund—Federal	\$4,400,000
State Building Construction Account—State	\$2,100,000
Subtotal Reappropriation	\$6,500,000
Prior Biennia (Expenditures)	\$1,336,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,836,000

NEW SECTION. Sec. 1123. FOR THE MILITARY DEPARTMENT

Minor Works Program 2019-21 Biennium (40000037)

Reappropriation:

General Fund—Federal	\$20,000,000
State Building Construction Account—State	\$2,200,000
Military Department Capital Account—State	\$109,000
Subtotal Reappropriation	\$22,309,000
Prior Biennia (Expenditures)	\$691,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$23,000,000

NEW SECTION. Sec. 1124. FOR THE MILITARY DEPARTMENT

Camp Murray Soldiers Memorial Park (40000062)

Reappropriation:

Military Department Capital Account—State	\$500,000
Prior Biennia (Expenditures)	\$56,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$556,000

NEW SECTION. Sec. 1125. FOR THE MILITARY DEPARTMENT

Stryker Canopies Kent Site (40000073)

Reappropriation:

General Fund—Federal	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 1126. FOR THE MILITARY DEPARTMENT

Stryker Canopies Bremerton Site (40000077)

Reappropriation:

General Fund—Federal	\$1,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 1127. FOR THE MILITARY DEPARTMENT

Montesano Field Maintenance Shop (FMS) Addition (40000095)

Reappropriation:

General Fund—Federal	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 1128. FOR THE MILITARY DEPARTMENT

Field Maintenance Shop Addition-Sedro Woolley FMS (40000104)

Appropriation:

General Fund—Federal	\$1,376,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,376,000

NEW SECTION. Sec. 1129. FOR THE MILITARY DEPARTMENT

Minor Works Program 21-23 Biennium (40000185)

Appropriation:

General Fund—Federal	\$6,382,000
State Building Construction Account—State	\$2,280,000
Subtotal Appropriation	\$8,662,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,662,000

NEW SECTION. Sec. 1130. FOR THE MILITARY DEPARTMENT

Minor Works Preservation 2021-23 Biennium (40000188)

Appropriation:

General Fund—Federal	\$7,180,000
State Building Construction Account—State	\$2,352,000
Subtotal Appropriation	\$9,532,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$9,532,000

NEW SECTION. Sec. 1131. FOR THE MILITARY DEPARTMENT

Camp Murray Bldg. 20 Roof Top Unit Upgrade (40000189)

Appropriation:

State Building Construction Account—State	\$313,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,200,000
TOTAL	\$1,513,000

NEW SECTION. Sec. 1132. FOR THE MILITARY DEPARTMENT

Camp Murray Bldg 47 and 48 Barracks Replacement (40000190)

Appropriation:

General Fund—Federal	\$2,147,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,147,000

NEW SECTION. Sec. 1133. FOR THE MILITARY DEPARTMENT

Camp Murray Bldg 65 Barracks Replacement (40000191)

Appropriation:

General Fund—Federal	\$2,236,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,236,000

NEW SECTION. Sec. 1134. FOR THE MILITARY DEPARTMENT

Ephrata Field Maintenance Shop Addition (40000193)

Appropriation:

General Fund—Federal	\$1,194,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,194,000

NEW SECTION. Sec. 1135. FOR THE MILITARY DEPARTMENT

JBLM Non-Organizational (POV) Parking Expansion (40000196)

Appropriation:

General Fund—Federal	\$1,245,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,245,000

NEW SECTION. Sec. 1136. FOR THE MILITARY DEPARTMENT

YTC Dining Facility: Transient Training (40000197)

Appropriation:

General Fund—Federal	\$486,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$5,000,000
TOTAL	\$5,486,000

NEW SECTION. Sec. 1137. FOR THE MILITARY DEPARTMENT

Olympia Armory Transfer (91000011)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation in this section must be deposited in the military department capital account to facilitate the transfer of the Olympia Armory to the city of Olympia. The military department must transfer the Olympia Armory to the city of Olympia for use as a community asset dedicated to using the arts to

support community development, arts education, and economic development initiatives for a minimum of 10 years. By May 30, 2023, the department must reach a memorandum of understanding to transfer the property for these purposes at no cost to the city, except for the city's assumption of closing costs. The memorandum must be reported to the house of representatives capital budget committee, the senate ways and means committee, and the governor's office by June 30, 2023.

Appropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 1138. FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Rehabilitation of Beverly Bridge (30000022)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 1111, chapter 413, Laws of 2019.

Reappropriation:

General Fund—Private/Local	\$429,000
State Building Construction Account—State	\$4,740,000
Subtotal Reappropriation	\$5,169,000
Prior Biennia (Expenditures).....	\$406,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$5,575,000

NEW SECTION. Sec. 1139. FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

2019-21 Historic County Courthouse Grants Program (30000023)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1112, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$1,035,000
Prior Biennia (Expenditures).....	\$84,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,119,000

NEW SECTION. Sec. 1140. FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

2019-21 Heritage Barn Preservation Program (30000024)

Reappropriation:

State Building Construction Account—State	\$383,000
Prior Biennia (Expenditures).....	\$62,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$445,000

NEW SECTION. Sec. 1141. FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

2019-21 Historic Cemetery Grant Program (40000001)

Reappropriation:

State Building Construction Account—State	.....	\$340,000
Prior Biennia (Expenditures)	.....	\$175,000
Future Biennia (Projected Costs)	.....	\$0
TOTAL	.....	\$515,000

NEW SECTION. Sec. 1142. FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Ebey's National Historic Reserve (40000003)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1115, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$655,000
---	-------	-----------

Appropriation:

State Building Construction Account—State	.....	\$320,000
Prior Biennia (Expenditures)	.....	\$345,000
Future Biennia (Projected Costs)	.....	\$0
TOTAL	.....	\$1,320,000

NEW SECTION. Sec. 1143. FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

21-23 Heritage Barn Grants (40000005)

Appropriation:

State Building Construction Account—State	.....	\$1,000,000
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	.....	\$4,000,000
TOTAL	.....	\$5,000,000

NEW SECTION. Sec. 1144. FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

21-23 Historic County Courthouse Rehabilitation Program (40000006)

The appropriation in this section is provided solely for the following list of projects:

Okanogan	.....	\$265,000
Walla Walla	.....	\$1,197,000
Lewis	.....	\$400,000

Appropriation:

State Building Construction Account—State	.....	\$1,862,000
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	.....	\$8,000,000
TOTAL	.....	\$9,862,000

NEW SECTION. Sec. 1145. FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

21-23 Historic Cemetery Grant Program (40000007)

Appropriation:

State Building Construction Account—State	.....	\$300,000
Prior Biennia (Expenditures)	.....	\$0

Future Biennia (Projected Costs)	\$2,060,000
TOTAL	\$2,360,000

NEW SECTION. Sec. 1146. FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

21-23 Historic Theater Capital Grant Program (40000012)

The appropriations in this section are subject to the following conditions and limitations: The funding in this section is intended to fund activities that preserve the historic character of theaters and not maintenance and upkeep.

Appropriation:

State Building Construction Account—State	\$300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,060,000
TOTAL	\$2,360,000

**PART 2
HUMAN SERVICES**

NEW SECTION. Sec. 2001. FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

Training Facility Capital and Functional Needs Assessment (91000002)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 2002, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$200,000

NEW SECTION. Sec. 2002. FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

L&I HQ Elevators (30000018)

Reappropriation:

Accident Account—State	\$425,000
Medical Aid Account—State	\$425,000
Subtotal Reappropriation	\$850,000
Prior Biennia (Expenditures)	\$3,084,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,934,000

NEW SECTION. Sec. 2003. FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

Minor Works Preservation Projects (30000035)

Appropriation:

Accident Account—State	\$1,075,000
Medical Aid Account—State	\$1,072,000
Subtotal Appropriation	\$2,147,000
Prior Biennia (Expenditures)	\$2,483,000
Future Biennia (Projected Costs)	\$7,842,000
TOTAL	\$12,472,000

NEW SECTION. Sec. 2004. FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

Modernize Lab and Training Facility (30000043)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 2005, chapter 413, Laws of 2019.

Reappropriation:

Accident Account—State	\$42,478,000
Medical Aid Account—State	\$7,496,000
Subtotal Reappropriation	\$49,974,000
Prior Biennia (Expenditures)	\$3,229,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$53,203,000

NEW SECTION. Sec. 2005. FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

Air Handler Retrofit and Cooling Tower Replacement (30000059)

Appropriation:

Accident Account—State	\$2,369,000
Medical Aid Account—State	\$2,369,000
Subtotal Appropriation	\$4,738,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,738,000

NEW SECTION. Sec. 2006. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital New Kitchen and Commissary Building (20081319)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 2003, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$2,358,000
Prior Biennia (Expenditures)	\$27,832,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$30,190,000

NEW SECTION. Sec. 2007. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Special Commitment Center: Kitchen & Dining Room Upgrades (20081506)

Reappropriation:

State Building Construction Account—State	\$848,000
Prior Biennia (Expenditures)	\$152,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 2008. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Fircrest School-Back-Up Power & Electrical Feeders (30000415)

Reappropriation:

State Building Construction Account—State	\$2,029,000
Prior Biennia (Expenditures)	\$3,171,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,200,000

NEW SECTION. Sec. 2009. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital: New Boiler Plant (30000468)

Reappropriation:

State Building Construction Account—State	\$12,032,000
Prior Biennia (Expenditures)	\$1,297,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,329,000

NEW SECTION. Sec. 2010. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor Works Preservation Projects: Statewide (30002235)

Reappropriation:

State Building Construction Account—State	\$3,575,000
Prior Biennia (Expenditures)	\$23,110,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$26,685,000

NEW SECTION. Sec. 2011. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Rainier School - Multiple Buildings: Roofing Replacement & Repairs (30002752)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 2005, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$1,908,000
Prior Biennia (Expenditures)	\$722,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,630,000

NEW SECTION. Sec. 2012. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Fircrest School-Nursing Facilities: Replacement (30002755)

The appropriation in this section is subject to the following conditions and limitations:

(1) It is the intent of the legislature to further the recommendations of the December 2019 report from the William D. Ruckleshaus center to redesign the intermediate care facility of the Fircrest Residential Habilitation Center to function as short-term crisis stabilization and intervention. It is also the intent of the legislature to concentrate the footprint of the Fircrest Residential Habilitation Center on the northern portion of the property. As a result, \$7,750,000 of the appropriation in this section is provided solely for design of a 120-bed nursing facility.

(2) \$2,243,000 of the appropriation is provided solely to relocate the adult training program to a different location on the Fircrest Rehabilitation Center campus. The department must consider the proposal to redesign the facility as a short-term crisis stabilization and intervention when devising options for relocation of the adult training program and submit a report of these options to the legislature no later than December 1, 2022.

(3) The department must seek input from individuals with intellectual and developmental disabilities, including the residents at Fircrest and their families or guardians, in design of a nursing facility.

Appropriation:

State Building Construction Account—State	\$9,993,000
Prior Biennia (Expenditures)	\$242,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,235,000

NEW SECTION. Sec. 2013. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Lakeland Village: Code Required Campus Infrastructure Upgrades (30002238)

Reappropriation:

State Building Construction Account—State	\$5,143,000
Prior Biennia (Expenditures)	\$6,057,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,200,000

NEW SECTION. Sec. 2014. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital-Westlake: New HVAC DDC Controls (30002759)

Reappropriation:

State Building Construction Account—State	\$1,227,000
---	-------------

Appropriation:

Coronavirus Capital Projects Account—Federal	\$1,450,000
Prior Biennia (Expenditures)	\$1,173,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,850,000

NEW SECTION. Sec. 2015. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital-Forensic Services: Two Wards Addition (30002765)

Reappropriation:

State Building Construction Account—State	\$23,572,000
Prior Biennia (Expenditures)	\$6,928,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$30,500,000

NEW SECTION. Sec. 2016. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

DOC/DSHS McNeil Island-Infrastructure: Repairs & Upgrades (30003211)

Reappropriation:

State Building Construction Account—State	\$1,234,000
Prior Biennia (Expenditures)	\$36,000
Future Biennia (Projected Costs)	\$0

TOTAL \$1,270,000

NEW SECTION. Sec. 2017. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

DOC/DSHS McNeil Island-Infrastructure: Water System Replacement (30003213)

Reappropriation:

State Building Construction Account—State	\$1,535,000
Prior Biennia (Expenditures)	\$973,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,508,000

NEW SECTION. Sec. 2018. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Child Study and Treatment Center: CLIP Capacity (30003324)

Reappropriation:

State Building Construction Account—State	\$4,064,000
Prior Biennia (Expenditures)	\$8,880,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,944,000

NEW SECTION. Sec. 2019. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Special Commitment Center-King County SCTF: Expansion (30003564)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 2010, chapter 298, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$227,000
Prior Biennia (Expenditures)	\$2,383,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,610,000

NEW SECTION. Sec. 2020. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

State Psychiatric Hospitals: Compliance with Federal Requirements (30003569)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 2015, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$322,000
Prior Biennia (Expenditures)	\$1,678,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 2021. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital: Master Plan Update (30003571)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 2016, chapter 2, Laws of 2018.

Reappropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$154,000
Prior Biennia (Expenditures)	\$371,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$525,000

NEW SECTION. Sec. 2022. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Yakima Valley School-Multiple Buildings: Safety Improvements (30003573)

Reappropriation:

State Building Construction Account—State		\$975,000
Prior Biennia (Expenditures)		\$900,000
Future Biennia (Projected Costs)		\$0
TOTAL		\$1,875,000

NEW SECTION. Sec. 2023. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Special Commitment Center-Community Facilities: New Capacity (30003577)

The appropriations in this section are subject to the following conditions and limitations: The department must consult with the communities that are potential sites for these facilities.

Reappropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$388,000

Appropriation:

State Building Construction Account—State		\$6,000,000
Prior Biennia (Expenditures)		\$112,000
Future Biennia (Projected Costs)		\$7,000,000
TOTAL		\$13,500,000

NEW SECTION. Sec. 2024. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital-East Campus: New Security Fence (30003578)

Reappropriation:

State Building Construction Account—State		\$479,000
Prior Biennia (Expenditures)		\$1,241,000
Future Biennia (Projected Costs)		\$0
TOTAL		\$1,720,000

NEW SECTION. Sec. 2025. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital-Multiple Buildings: Fire Suppression (30003579)

Reappropriation:

State Building Construction Account—State		\$105,000
Prior Biennia (Expenditures)		\$895,000

Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 2026. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital-Multiple Buildings: Elevator Modernization (30003582)

Reappropriation:

State Building Construction Account—State	\$4,821,000
Prior Biennia (Expenditures)	\$279,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,100,000

NEW SECTION. Sec. 2027. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital-Multiple Buildings: Windows Security (30003585)

Reappropriation:

State Building Construction Account—State	\$446,000
Prior Biennia (Expenditures)	\$2,104,000
Future Biennia (Projected Costs)	\$10,000,000
TOTAL	\$12,550,000

NEW SECTION. Sec. 2028. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Fircrest School: Campus Master Plan & Rezone (30003601)

The appropriations in this section are subject to the following conditions and limitations:

- (1) The appropriations are subject to the provisions of section 2012, chapter 298, Laws of 2018.
- (2) The department shall collaborate with the city of Shoreline on the future siting of three 16-bed behavioral health facilities on the northeast corner of the campus and a 120-bed nursing facility on the northwest portion of the campus.
- (3) The department shall collaborate with the city to rezone portions of the Fircrest campus that are under used and not necessary for department operations, including the southwest corner, for long-term, revenue-generating opportunities.

Reappropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$102,000
--	-----------

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$125,000
Prior Biennia (Expenditures)	\$98,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$325,000

NEW SECTION. Sec. 2029. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital-Forensic Services: Roofing Replacement (30003603)

Reappropriation:

State Building Construction Account—State	\$487,000
---	-----------

Prior Biennia (Expenditures)	\$1,468,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,955,000

NEW SECTION. Sec. 2030. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital: Emergency Electrical System Upgrades (30003616)

Reappropriation:

State Building Construction Account—State	\$876,000
---	-----------

Appropriation:

State Building Construction Account—State	\$1,055,000
Prior Biennia (Expenditures)	\$124,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,055,000

NEW SECTION. Sec. 2031. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Behavioral Health: Compliance with Systems Improvement Agreement (30003849)

Reappropriation:

State Building Construction Account—State	\$265,000
Prior Biennia (Expenditures)	\$8,635,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,900,000

NEW SECTION. Sec. 2032. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital: Wards Renovations for Forensic Services (40000026)

Reappropriation:

State Building Construction Account—State	\$1,770,000
Prior Biennia (Expenditures)	\$8,790,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,560,000

NEW SECTION. Sec. 2033. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor Works Preservation Projects: Statewide 2019-21 (40000381)

Reappropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	
	\$1,333,000
State Building Construction Account—State	\$10,043,000
Subtotal Reappropriation	\$11,376,000
Prior Biennia (Expenditures)	\$3,674,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,050,000

NEW SECTION. Sec. 2034. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor Works Program Projects: Statewide 2019-21 (40000382)

Reappropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	
	\$825,000

State Building Construction Account—State	\$1,649,000
Subtotal Reappropriation	\$2,474,000
Prior Biennia (Expenditures)	\$281,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,755,000

NEW SECTION. Sec. 2035. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital-Multiple Buildings: Fire Doors Replacement (40000392)

Reappropriation:

State Building Construction Account—State	\$5,046,000
Prior Biennia (Expenditures)	\$54,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,100,000

NEW SECTION. Sec. 2036. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

DSHS & DCYF Fire Alarms (91000066)

The appropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions section 2009, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$10,777,000
---	--------------

Appropriation:

State Building Construction Account—State	\$5,000,000
Prior Biennia (Expenditures)	\$1,042,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$16,819,000

NEW SECTION. Sec. 2037. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital: New Forensic Hospital (91000067)

The appropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation is subject to the provisions of section 2040, chapter 413, Laws of 2019.

(2) The department must complete the design funded in this section in a manner that will consider ways to reduce costs associated with the construction of the new forensic hospital.

Reappropriation:

State Building Construction Account—State	\$2,000
---	---------

Appropriation:

State Building Construction Account—State	\$51,000,000
Prior Biennia (Expenditures)	\$998,000
Future Biennia (Projected Costs)	\$560,163,000
TOTAL	\$612,163,000

NEW SECTION. Sec. 2038. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital Elevators (91000068)

Reappropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$2,395,000
Prior Biennia (Expenditures)	\$305,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,700,000

NEW SECTION. Sec. 2039. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Special Commitment Center: Strategic Master Plan (40000394)

Appropriation:

Charitable, Educational, Penal, and Reformatory	
Institutions Account—State	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 2040. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital-Eastlake & Westlake: Fire & Smoke Controls (40000404)

Reappropriation:

State Building Construction Account—State	\$1,933,000
Prior Biennia (Expenditures)	\$117,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,050,000

NEW SECTION. Sec. 2041. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital-Westlake: Fire Stops (40000405)

Reappropriation:

State Building Construction Account—State	\$1,991,000
Prior Biennia (Expenditures)	\$139,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,130,000

NEW SECTION. Sec. 2042. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Child Study and Treatment Center-Ketron: LSA Expansion (40000411)

Appropriation:

State Building Construction Account—State	\$1,618,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,618,000

NEW SECTION. Sec. 2043. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Special Commitment Center-Fire House: Electrical Upgrades (40000422)

Reappropriation:

State Building Construction Account—State	\$1,112,000
Prior Biennia (Expenditures)	\$423,000
Future Biennia (Projected Costs)	\$0

TOTAL \$1,535,000

NEW SECTION. Sec. 2044. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Eastern State Hospital-EL & WL: HVAC Compliance & Monitoring (40000492)

Reappropriation:

State Building Construction Account—State	\$1,816,000
Prior Biennia (Expenditures)	\$99,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,915,000

NEW SECTION. Sec. 2045. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Maple Lane-Columbia Cottage: Behavioral Health Expansion (40000567)

Appropriation:

State Building Construction Account—State	\$5,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 2046. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor Works Program Projects: Statewide 2021-23 (40000569)

The appropriation in this section is subject to the following conditions and limitations: \$250,000 of the appropriation in this section is provided solely for the department to complete a comprehensive review and plan of the water system on the Firecrest campus.

Appropriation:

State Building Construction Account—State	\$2,755,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$13,750,000
TOTAL	\$16,505,000

NEW SECTION. Sec. 2047. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Minor Works Preservation Projects: Statewide 2021-23 (40000571)

Appropriation:

State Building Construction Account—State	\$6,950,000
Charitable, Educational, Penal, and Reformatory Institutions Account—State	\$1,845,000
Subtotal Appropriation	\$8,795,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$21,000,000
TOTAL	\$29,795,000

NEW SECTION. Sec. 2048. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Transitional Care Center-Main Building: Patient Rooms Cooling (40000574)

Appropriation:

Coronavirus Capital Projects Account—Federal.	\$2,335,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$2,335,000

NEW SECTION. Sec. 2049. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Statewide-Behavioral Health: Patient Safety Improvements 2021-23 (40000578)

Appropriation:

State Building Construction Account—State	\$7,000,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$28,000,000
TOTAL	\$35,000,000

NEW SECTION. Sec. 2050. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital-Building 29: Roofing Replacement (40000589)

Appropriation:

State Building Construction Account—State	\$2,285,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$2,285,000

NEW SECTION. Sec. 2051. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital-Building 27: Roofing Replacement (40000888)

Appropriation:

State Building Construction Account—State	\$1,200,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$1,200,000

NEW SECTION. Sec. 2052. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

ESH and WSH-All Wards: Patient Safety Improvements (91000019)

Reappropriation:

State Building Construction Account—State	\$8,076,000
Prior Biennia (Expenditures).	\$10,593,000
Future Biennia (Projected Costs).	\$40,000,000
TOTAL	\$58,669,000

NEW SECTION. Sec. 2053. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital & CSTC Power Upgrades (91000070)

Reappropriation:

State Building Construction Account—State	\$2,081,000
Prior Biennia (Expenditures).	\$219,000
Future Biennia (Projected Costs).	\$0
TOTAL	\$2,300,000

NEW SECTION. Sec. 2054. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

BH: State Owned, Mixed Use Community Civil 48-Bed Capacity (91000074)

Reappropriation:

State Building Construction Account—State	\$168,000
Prior Biennia (Expenditures)	\$182,000
Future Biennia (Projected Costs)	\$55,274,000
TOTAL	\$55,624,000

NEW SECTION. Sec. 2055. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

BH: State Operated Community Civil 16-Bed Capacity (91000075)

Reappropriation:

State Building Construction Account—State	\$4,131,000
---	-------------

Appropriation:

State Building Construction Account—State	\$15,190,000
Prior Biennia (Expenditures)	\$869,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$20,190,000

NEW SECTION. Sec. 2056. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

BH: State Owned, Mixed Use Community Civil 48-Bed Capacity (91000077)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 2054, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$18,235,000
---	--------------

Appropriation:

State Building Construction Account—State	\$37,700,000
Prior Biennia (Expenditures)	\$1,765,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$57,700,000

NEW SECTION. Sec. 2057. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Rainier School-Pats E,C Cottage Cooling Upgrades (91000078)

Reappropriation:

State Building Construction Account—State	\$1,362,000
Prior Biennia (Expenditures)	\$6,638,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,000,000

NEW SECTION. Sec. 2058. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Western State Hospital Treatment & Recovery Center (91000080)

Reappropriation:

State Building Construction Account—State	\$7,464,000
---	-------------

Appropriation:

State Building Construction Account—State	\$16,600,000
Prior Biennia (Expenditures)	\$536,000

Future Biennia (Projected Costs).....	\$0
TOTAL	\$24,600,000

NEW SECTION. Sec. 2059. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Community Nursing Care Homes (92000042)

(1) It is the intent of the legislature to further the recommendations of the December 2019 report from the William D. Ruckleshaus center to redesign intermediate care facilities of the residential habilitation centers to function as short-term crisis stabilization and intervention by constructing smaller, nursing care homes in community settings to care for individuals with intellectual and developmental disabilities.

(2) \$300,000 of the appropriation in this section is provided solely to complete a predesign of community nursing care homes to provide nursing facility level of care to individuals with intellectual and developmental disabilities. The predesign must include options for four or five individual facilities with a minimum of four beds in each and for an individual facility with a minimum of 30 beds.

(3) The department shall provide recommendations for where these community nursing care homes should be located geographically in the state and an analysis of the costs associated with operating these homes. The department shall submit a report of this information to the governor and the appropriate committees of the legislature no later than December 1, 2021.

Appropriation:

State Building Construction Account—State	\$300,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$300,000

NEW SECTION. Sec. 2060. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Residential Habilitation Center Land Management (92000044)

The appropriation in this section is subject to the following conditions and limitations: The department shall hire one full-time employee with expertise in land management and development to manage the lands of the residential habilitation centers including, but not limited to, the long-term, revenue generating opportunities for underused portions of the Fircrest Residential Habilitation Center. It is the intent of the legislature that this position will maximize the earning potential of the lands to fund services for those with intellectual and developmental disabilities.

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State.....	\$150,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$150,000

NEW SECTION. Sec. 2061. FOR THE DEPARTMENT OF HEALTH

Newborn Screening Wing Addition (30000301)

Reappropriation:

State Building Construction Account—State	\$900,000
Prior Biennia (Expenditures)	\$4,734,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,634,000

NEW SECTION, Sec. 2062. FOR THE DEPARTMENT OF HEALTH

Drinking Water Preconstruction Loans (30000334)

Reappropriation:

Drinking Water Assistance Account—State	\$5,115,000
Prior Biennia (Expenditures)	\$585,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,700,000

NEW SECTION, Sec. 2063. FOR THE DEPARTMENT OF HEALTH

Public Health Lab South Laboratory Addition (30000379)

Appropriation:

Coronavirus Capital Projects Account—Federal	\$4,933,000
Prior Biennia (Expenditures)	\$196,000
Future Biennia (Projected Costs)	\$66,519,000
TOTAL	\$71,648,000

NEW SECTION, Sec. 2064. FOR THE DEPARTMENT OF HEALTH

New Central Boiler Plant (30000381)

The appropriation in this section is subject to the following conditions and limitations: The department must submit a preliminary predesign to the office of financial management and the appropriate legislative committees by December 31, 2021. Appropriations for design and construction may not be expended or encumbered until the office of financial management has reviewed and approved the department's predesign.

Appropriation:

State Building Construction Account—State	\$12,725,000
Prior Biennia (Expenditures)	\$540,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,265,000

NEW SECTION, Sec. 2065. FOR THE DEPARTMENT OF HEALTH

Drinking Water Construction Loans (30000409)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 2034, chapter 2, Laws of 2018.

Reappropriation:

Drinking Water Assistance Account—State	\$38,529,000
Prior Biennia (Expenditures)	\$69,609,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$108,138,000

NEW SECTION, Sec. 2066. FOR THE DEPARTMENT OF HEALTH

Drinking Water System Repairs and Consolidation (40000006)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 2035, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$2,858,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,858,000

NEW SECTION. Sec. 2067. FOR THE DEPARTMENT OF HEALTH
Othello Water Supply and Storage (40000008)

Reappropriation:

State Building Construction Account—State	\$965,000
Prior Biennia (Expenditures)	\$585,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,550,000

NEW SECTION. Sec. 2068. FOR THE DEPARTMENT OF HEALTH
2019-21 Drinking Water Assistance Program (40000025)

Reappropriation:

Drinking Water Assistance Account—Federal	\$31,000,000
Prior Biennia (Expenditures)	\$4,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$35,000,000

NEW SECTION. Sec. 2069. FOR THE DEPARTMENT OF HEALTH
2019-21 Drinking Water System Repairs and Consolidation (40000027)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 2068, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures)	\$21,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$771,000

NEW SECTION. Sec. 2070. FOR THE DEPARTMENT OF HEALTH
Small & Disadvantaged Communities DW (40000031)

Appropriation:

General Fund—Federal	\$743,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$743,000

NEW SECTION. Sec. 2071. FOR THE DEPARTMENT OF HEALTH
E-wing Remodel to a Molecular Laboratory (40000032)

Appropriation:

Coronavirus Capital Projects Account—Federal	\$216,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$14,179,000
TOTAL	\$14,395,000

NEW SECTION. Sec. 2072. FOR THE DEPARTMENT OF HEALTH

Replace Air Handling Unit (AHU) in A/Q-wings (40000034)

Appropriation:

Coronavirus Capital Projects Account—Federal.	\$1,894,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$1,894,000

NEW SECTION. Sec. 2073. FOR THE DEPARTMENT OF HEALTH

Minor Works - Facility Preservation (40000037)

Appropriation:

State Building Construction Account—State	\$460,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$460,000

NEW SECTION. Sec. 2074. FOR THE DEPARTMENT OF HEALTH

Minor Works - Facility Program (40000038)

Appropriation:

State Building Construction Account—State	\$554,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$554,000

NEW SECTION. Sec. 2075. FOR THE DEPARTMENT OF HEALTH

2021-23 Drinking Water Assistance Program (40000049)

The appropriation in this section is subject to the following conditions and limitations:

(1) For projects involving repair, replacement, or improvement of a clean water infrastructure facility or other public works facility for which an investment grade efficiency audit is reasonably obtainable, the department must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its drinking water state revolving fund program loan.

(2) The department must encourage local government use of federally funded drinking water infrastructure programs operated by the United States department of agriculture rural development.

Appropriation:

Drinking Water Assistance Account—Federal	\$34,000,000
Prior Biennia (Expenditures).	\$0
Future Biennia (Projected Costs).	\$0
TOTAL	\$34,000,000

NEW SECTION. Sec. 2076. FOR THE DEPARTMENT OF HEALTH

2021-23 Drinking Water Construction Loans - State Match (40000051)

The appropriation in this section is subject to the following conditions and limitations:

(1) For projects involving repair, replacement, or improvement of a clean water infrastructure facility or other public works facility for which an investment grade efficiency audit is reasonably obtainable, the department of health must require as a contract condition that the project sponsor undertake an

investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its drinking water state revolving fund program loan.

(2) The department must encourage local government use of federally funded drinking water infrastructure programs operated by the United States department of agriculture rural development.

Appropriation:

Drinking Water Assistance Account—State	\$11,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,000,000

NEW SECTION. Sec. 2077. FOR THE DEPARTMENT OF HEALTH
Lakewood Water District PFAS Treatment Facility (40000052)

Appropriation:

State Building Construction Account—State	\$5,569,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,569,000

NEW SECTION. Sec. 2078. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Washington Veterans Home: Bldg 6 & 7 Demo and Grounds Improvement (30000002)

Reappropriation:

State Building Construction Account—State	\$2,585,000
Prior Biennia (Expenditures)	\$317,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,902,000

NEW SECTION. Sec. 2079. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Minor Works Facilities Preservation (30000094)

Reappropriation:

State Building Construction Account—State	\$755,000
Model Toxics Control Capital Account—State	\$200,000
Subtotal Reappropriation	\$955,000
Prior Biennia (Expenditures)	\$4,339,000
Future Biennia (Projected Costs)	\$14,960,000
TOTAL	\$20,254,000

NEW SECTION. Sec. 2080. FOR THE DEPARTMENT OF VETERANS AFFAIRS

WVH HVAC Retrofit (40000006)

Reappropriation:

State Building Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$162,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$412,000

NEW SECTION. Sec. 2081. FOR THE DEPARTMENT OF VETERANS AFFAIRS

WSH - Life Safety Grant (40000013)

Reappropriation:

General Fund—Federal	\$325,000
State Building Construction Account—State	\$175,000
Subtotal Reappropriation	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 2082. FOR THE DEPARTMENT OF VETERANS AFFAIRS

DVA ARPA Federal Funds & State Match (91000013)

The appropriations in this section are subject to the following conditions and limitations:

(1) The department is granted federal expenditure authority in anticipation of the receipt of federal competitive grant funding for which it is eligible to apply under section 8004 of the American rescue plan act of 2021, P.L. 117-2.

(2) Funding appropriated in this section must be used for projects in the following priority order:

(a) The WVH HVAC Retrofit project (40000006); and

(b) Minor works projects that meet the requirements set forth in section 8004 of the American rescue plan act of 2021, P.L. 117-2.

(3) The state building construction account—state appropriation in this section must be used as state match funds to leverage the federal funding described in subsection (1) of this section. Any amount that exceeds the level of state match funds required to maximize the federal funding opportunity must be placed in unallotted status.

Appropriation:

General Fund—Federal	\$24,515,000
State Building Construction Account—State	\$8,584,000
Subtotal Appropriation	\$33,099,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$33,099,000

NEW SECTION. Sec. 2083. FOR THE DEPARTMENT OF VETERANS AFFAIRS

Extended Care Facilities Construction Grants (92000001)

Appropriation:

General Fund—Federal	\$13,133,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,133,000

NEW SECTION. Sec. 2084. FOR THE DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

Echo Glen-Housing Unit: Acute Mental Health Unit (30002736)

Reappropriation:

State Building Construction Account—State	\$7,000,000
Prior Biennia (Expenditures)	\$2,600,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$9,600,000

NEW SECTION. Sec. 2085. FOR THE DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

Green Hill School-Recreation Building: Replacement (30003237)

Appropriation:

State Building Construction Account—State	\$29,962,000
Prior Biennia (Expenditures)	\$1,800,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$31,762,000

NEW SECTION. Sec. 2086. FOR THE DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

Minor Works Preservation Projects: Statewide 2019-21 (40000400)

Reappropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures)	\$2,250,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 2087. FOR THE DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

Minor Works Preservation Projects - SW 2021-23 (40000532)

Appropriation:

Charitable, Educational, Penal, and Reformatory Institutions Account—State	
	\$761,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$761,000

NEW SECTION. Sec. 2088. FOR THE DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

Purchase Authority - Touchstone Group Home (40000533)

Appropriation:

State Building Construction Account—State	\$800,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$800,000

NEW SECTION. Sec. 2089. FOR THE DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

Green Hill School - Baker North Remodel (40000534)

Appropriation:

State Building Construction Account—State	\$6,624,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,624,000

NEW SECTION. Sec. 2090. FOR THE DEPARTMENT OF CORRECTIONS

MCC: WSR Perimeter Wall Renovation (30000117)

Reappropriation:

State Building Construction Account—State	\$200,000
---	-----------

Appropriation:

State Building Construction Account—State	\$1,000,000
---	-------------

Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$10,063,000
TOTAL	\$11,263,000

NEW SECTION. Sec. 2091. FOR THE DEPARTMENT OF CORRECTIONS

CBCC: Boiler Replacement (30000130)

Reappropriation:

State Building Construction Account—State	\$7,000,000
Prior Biennia (Expenditures).....	\$624,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$7,624,000

NEW SECTION. Sec. 2092. FOR THE DEPARTMENT OF CORRECTIONS

Washington Corrections Center: Transformers and Switches (30000143)

Reappropriation:

State Building Construction Account—State	\$16,435,000
Prior Biennia (Expenditures).....	\$4,010,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$20,445,000

NEW SECTION. Sec. 2093. FOR THE DEPARTMENT OF CORRECTIONS

WCC: Replace Roofs (30000654)

Reappropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures).....	\$3,719,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$4,219,000

NEW SECTION. Sec. 2094. FOR THE DEPARTMENT OF CORRECTIONS

MCC: TRU Roof Programs and Recreation Building (30000738)

Appropriation:

State Building Construction Account—State	\$5,996,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$5,996,000

NEW SECTION. Sec. 2095. FOR THE DEPARTMENT OF CORRECTIONS

MCC: TRU Support Building HVAC Replacement (40000379)

Appropriation:

Coronavirus Capital Projects Account—Federal.	\$4,646,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$4,646,000

NEW SECTION. Sec. 2096. FOR THE DEPARTMENT OF CORRECTIONS

WCC: Support Buildings Roof Replacement (40000380)

Appropriation:

State Building Construction Account—State	\$7,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$9,427,000
TOTAL	\$16,427,000

NEW SECTION. Sec. 2097. FOR THE DEPARTMENT OF CORRECTIONS

SW IMU Recreation Yard Improvement (30001123)

Reappropriation:

State Building Construction Account—State	\$900,000
---	-----------

Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$600,000
Future Biennia (Projected Costs)	\$1,532,000
TOTAL	\$4,532,000

NEW SECTION. Sec. 2098. FOR THE DEPARTMENT OF CORRECTIONS

CRCC Security Electronics Network Renovation (30001124)

Reappropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$2,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,000,000

NEW SECTION. Sec. 2099. FOR THE DEPARTMENT OF CORRECTIONS

WCC: Reclaimed Water Line (40000058)

Reappropriation:

State Building Construction Account—State	\$1,871,000
Prior Biennia (Expenditures)	\$116,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,987,000

NEW SECTION. Sec. 2100. FOR THE DEPARTMENT OF CORRECTIONS

MCC: WSR Clinic Roof Replacement (40000180)

Reappropriation:

State Building Construction Account—State	\$825,000
---	-----------

Appropriation:

State Building Construction Account—State	\$8,508,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$9,333,000

NEW SECTION. Sec. 2101. FOR THE DEPARTMENT OF CORRECTIONS

MCC: SOU and TRU - Domestic Water and HVAC Piping System (40000246)

The appropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 2026, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State\$300,000

Appropriation:

State Building Construction Account—State \$2,729,000

Prior Biennia (Expenditures).....\$100,000

Future Biennia (Projected Costs)..... \$18,922,000

TOTAL \$22,051,000

NEW SECTION. Sec. 2102. FOR THE DEPARTMENT OF CORRECTIONS

Minor Works - Preservation Projects (40000254)

Appropriation:

State Building Construction Account—State \$11,800,000

Prior Biennia (Expenditures)..... \$0

Future Biennia (Projected Costs)..... \$60,833,000

TOTAL \$72,633,000

NEW SECTION. Sec. 2103. FOR THE DEPARTMENT OF CORRECTIONS

LCC: Boiler Replacement (40000255)

Appropriation:

State Building Construction Account—State \$1,300,000

Prior Biennia (Expenditures)..... \$0

Future Biennia (Projected Costs)..... \$3,695,000

TOTAL \$4,995,000

NEW SECTION. Sec. 2104. FOR THE DEPARTMENT OF CORRECTIONS

MCC: Sewer System HABU (Highest and Best Use) (40000185)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 2103, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State\$500,000

Prior Biennia (Expenditures).....\$300,000

Future Biennia (Projected Costs)..... \$0

TOTAL\$800,000

NEW SECTION. Sec. 2105. FOR THE DEPARTMENT OF CORRECTIONS

Minor Works - Preservation Projects (40000187)

Reappropriation:

State Building Construction Account—State \$3,500,000

Prior Biennia (Expenditures)..... \$2,973,000

Future Biennia (Projected Costs)..... \$0

TOTAL \$6,473,000

NEW SECTION. Sec. 2106. FOR THE DEPARTMENT OF CORRECTIONS

WSP: Unit Six Roof Replacement (92000037)

Reappropriation:

State Building Construction Account—State	\$650,000
Prior Biennia (Expenditures).....	\$277,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$927,000

NEW SECTION. Sec. 2107. FOR THE DEPARTMENT OF CORRECTIONS

WCCW: AC for MSU (92000039)

Reappropriation:

State Building Construction Account—State	\$1,250,000
Prior Biennia (Expenditures).....	\$46,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,296,000

PART 3

NATURAL RESOURCES

NEW SECTION. Sec. 3001. FOR THE DEPARTMENT OF ECOLOGY

Water Supply Facilities (19742006)

Reappropriation:

State and Local Improvements Revolving Account—	
Water Supply Facilities—State	\$295,000
Prior Biennia (Expenditures).....	\$15,116,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$15,411,000

NEW SECTION. Sec. 3002. FOR THE DEPARTMENT OF ECOLOGY

Low-Level Nuclear Waste Disposal Trench Closure (19972012)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3002, chapter 3, Laws of 2015 3rd sp. sess.

Reappropriation:

Site Closure Account—State.....	\$8,472,000
Prior Biennia (Expenditures).....	\$4,930,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$13,402,000

NEW SECTION. Sec. 3003. FOR THE DEPARTMENT OF ECOLOGY

Twin Lake Aquifer Recharge Project (20042951)

Reappropriation:

State Building Construction Account—State	\$146,000
Prior Biennia (Expenditures).....	\$604,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$750,000

NEW SECTION. Sec. 3004. FOR THE DEPARTMENT OF ECOLOGY

Quad Cities Water Right Mitigation (20052852)

Reappropriation:

State Building Construction Account—State	\$115,000
Prior Biennia (Expenditures)	\$1,484,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,599,000

NEW SECTION. Sec. 3005. FOR THE DEPARTMENT OF ECOLOGY

Transfer of Water Rights for Cabin Owners (20081951)

Reappropriation:

State Building Construction Account—State	\$57,000
Prior Biennia (Expenditures)	\$393,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$450,000

NEW SECTION. Sec. 3006. FOR THE DEPARTMENT OF ECOLOGY

Watershed Plan Implementation and Flow Achievement (30000028)

Reappropriation:

State Building Construction Account—State	\$115,000
Prior Biennia (Expenditures)	\$5,881,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,996,000

NEW SECTION. Sec. 3007. FOR THE DEPARTMENT OF ECOLOGY

Remedial Action Grant Program (30000039)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3006, chapter 36, Laws of 2010 1st sp. sess.

Reappropriation:

Model Toxics Control Capital Account—State	\$2,715,000
Prior Biennia (Expenditures)	\$72,394,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$75,109,000

NEW SECTION. Sec. 3008. FOR THE DEPARTMENT OF ECOLOGY

Clean Up Toxics Sites - Puget Sound (30000144)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3021, chapter 48, Laws of 2011 1st sp. sess. and section 3002, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

Model Toxics Control Capital Account—State	\$317,000
Prior Biennia (Expenditures)	\$38,717,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$39,034,000

NEW SECTION. Sec. 3009. FOR THE DEPARTMENT OF ECOLOGY

Watershed Plan Implementation and Flow Achievement (30000213)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3030, chapter 49, Laws of 2011 1st sp. sess.

Reappropriation:

State Building Construction Account—State	\$87,000
Prior Biennia (Expenditures)	\$7,913,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,000,000

NEW SECTION. Sec. 3010. FOR THE DEPARTMENT OF ECOLOGY

Remedial Action Grant Program (30000216)

Reappropriation:

Model Toxics Control Capital Account—State	\$17,040,000
Prior Biennia (Expenditures)	\$45,824,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$62,864,000

NEW SECTION. Sec. 3011. FOR THE DEPARTMENT OF ECOLOGY

Clean Up Toxics Sites - Puget Sound (30000265)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3005, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

Model Toxics Control Capital Account—State	\$160,000
Prior Biennia (Expenditures)	\$15,042,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,202,000

NEW SECTION. Sec. 3012. FOR THE DEPARTMENT OF ECOLOGY

ASARCO - Tacoma Smelter Plume and Mines (30000280)

Reappropriation:

Cleanup Settlement Account—State	\$2,835,000
Prior Biennia (Expenditures)	\$17,812,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$20,647,000

NEW SECTION. Sec. 3013. FOR THE DEPARTMENT OF ECOLOGY

Padilla Bay Federal Capital Projects (30000282)

Reappropriation:

General Fund—Federal	\$91,000
Prior Biennia (Expenditures)	\$709,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$800,000

NEW SECTION. Sec. 3014. FOR THE DEPARTMENT OF ECOLOGY

Watershed Plan Implementation and Flow Achievement (30000331)

Reappropriation:

State Building Construction Account—State	\$2,013,000
Prior Biennia (Expenditures)	\$7,987,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,000,000

NEW SECTION. Sec. 3015. FOR THE DEPARTMENT OF ECOLOGY

Dungeness Water Supply & Mitigation (30000333)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3082, chapter 19, Laws of 2013 2nd sp. sess.

Reappropriation:

State Building Construction Account—State	\$639,000
Prior Biennia (Expenditures)	\$1,411,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,050,000

NEW SECTION. Sec. 3016. FOR THE DEPARTMENT OF ECOLOGY

ASARCO Cleanup (30000334)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3020, chapter 413, Laws of 2019.

Reappropriation:

Cleanup Settlement Account—State	\$1,273,000
Prior Biennia (Expenditures)	\$34,987,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$36,260,000

NEW SECTION. Sec. 3017. FOR THE DEPARTMENT OF ECOLOGY

Padilla Bay Federal Capital Projects - Programmatic (30000335)

Reappropriation:

General Fund—Federal	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 3018. FOR THE DEPARTMENT OF ECOLOGY

Clean Up Toxics Sites - Puget Sound (30000337)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3007, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

Model Toxics Control Capital Account—State	\$1,071,000
Prior Biennia (Expenditures)	\$23,984,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$25,055,000

NEW SECTION. Sec. 3019. FOR THE DEPARTMENT OF ECOLOGY

Remedial Action Grants (30000374)

Reappropriation:

Model Toxics Control Capital Account—State	\$9,357,000
Prior Biennia (Expenditures)	\$53,180,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$62,537,000

NEW SECTION. Sec. 3020. FOR THE DEPARTMENT OF ECOLOGY

Centennial Clean Water Program (30000427)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 3009, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

Model Toxics Control Capital Account—State	\$1,627,000
State Building Construction Account—State	\$543,000
Subtotal Reappropriation	\$2,170,000
Prior Biennia (Expenditures)	\$20,330,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$22,500,000

NEW SECTION. Sec. 3021. FOR THE DEPARTMENT OF ECOLOGY

Eastern Washington Clean Sites Initiative (30000432)

Reappropriation:

Model Toxics Control Capital Account—State	\$7,444,000
Prior Biennia (Expenditures)	\$2,456,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$9,900,000

NEW SECTION. Sec. 3022. FOR THE DEPARTMENT OF ECOLOGY

Remedial Action Grants (30000458)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 3011, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

Model Toxics Control Capital Account—State	\$8,711,000
State Building Construction Account—State	\$14,081,000
Subtotal Reappropriation	\$22,792,000
Prior Biennia (Expenditures)	\$29,955,000
Future Biennia (Projected Costs)	\$0

TOTAL \$52,747,000

NEW SECTION. Sec. 3023. FOR THE DEPARTMENT OF ECOLOGY

Leaking Tank Model Remedies (30000490)

Reappropriation:

Model Toxics Control Capital Account—State \$280,000
 Prior Biennia (Expenditures) \$1,720,000
 Future Biennia (Projected Costs) \$0
 TOTAL \$2,000,000

NEW SECTION. Sec. 3024. FOR THE DEPARTMENT OF ECOLOGY

Stormwater Financial Assistance Program (30000535)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3012, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

Model Toxics Control Stormwater Account—State \$22,444,000
 Prior Biennia (Expenditures) \$8,757,000
 Future Biennia (Projected Costs) \$0
 TOTAL \$31,201,000

NEW SECTION. Sec. 3025. FOR THE DEPARTMENT OF ECOLOGY

Coastal Wetlands Federal Funds (30000536)

Reappropriation:

General Fund—Federal \$3,962,000
 Prior Biennia (Expenditures) \$6,038,000
 Future Biennia (Projected Costs) \$0
 TOTAL \$10,000,000

NEW SECTION. Sec. 3026. FOR THE DEPARTMENT OF ECOLOGY

Floodplains by Design (30000537)

Reappropriation:

State Building Construction Account—State \$10,094,000
 Prior Biennia (Expenditures) \$25,466,000
 Future Biennia (Projected Costs) \$0
 TOTAL \$35,560,000

NEW SECTION. Sec. 3027. FOR THE DEPARTMENT OF ECOLOGY

ASARCO Cleanup (30000538)

Reappropriation:

Cleanup Settlement Account—State \$1,982,000
 Prior Biennia (Expenditures) \$10,164,000
 Future Biennia (Projected Costs) \$0
 TOTAL \$12,146,000

NEW SECTION. Sec. 3028. FOR THE DEPARTMENT OF ECOLOGY

Cleanup Toxics Sites - Puget Sound (30000542)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3013, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

Model Toxics Control Capital Account—State	\$6,379,000
Prior Biennia (Expenditures)	\$8,002,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$14,381,000

NEW SECTION. Sec. 3029. FOR THE DEPARTMENT OF ECOLOGY

Columbia River Water Supply Development Program (30000588)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3068, chapter 3, Laws of 2015 3rd sp. sess.

Reappropriation:

Columbia River Basin Water Supply Revenue	
Recovery Account—State	\$1,313,000
Prior Biennia (Expenditures)	\$17,687,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$19,000,000

NEW SECTION. Sec. 3030. FOR THE DEPARTMENT OF ECOLOGY

Sunnyside Valley Irrigation District Water Conservation (30000589)

Reappropriation:

State Building Construction Account—State	\$1,129,000
Prior Biennia (Expenditures)	\$1,926,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,055,000

NEW SECTION. Sec. 3031. FOR THE DEPARTMENT OF ECOLOGY

Yakima River Basin Water Supply (30000590)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriations are subject to the provisions of section 3070, chapter 3, Laws of 2015 3rd sp. sess., except as provided in subsection (2) of this section.

(2)(a) \$3,250,000 of the appropriation in this section is provided solely for the acquisition of real property in lower Kittitas county known as the Eaton Ranch property by the state through the department of enterprise services on behalf of the department. This appropriation is provided to fund the closing, project, and transaction costs related to the acquisition of the property. The departments must expedite the review and execution of the transaction by June 30, 2022. It is the intent of the legislature that the state hold the property until a transfer to the United States bureau of reclamation for the purposes of

construction of a water supply reservoir in accordance with the Yakima Basin integrated plan, or until such purpose is declared by the bureau no longer feasible.

(b) The legislature recognizes and declares that the acquisition of a portion of the Eaton Ranch for the construction of a water supply reservoir in accordance with the goals and objectives of the Yakima Basin integrated plan is a unique circumstance and the Eaton Ranch property offers special and essential features that are expected to yield broad public benefit to the state. It is the intent of the legislature that the department provide the necessary funding through subsequent funding requests to maintain and principally operate the land for grazing of livestock with the local conservation district, or an equivalent organization, until a transfer of the property to the United States bureau of reclamation.

Reappropriation:

State Taxable Building Construction Account—	
State	\$3,564,000
Prior Biennia (Expenditures)	\$26,436,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$30,000,000

NEW SECTION. Sec. 3032. FOR THE DEPARTMENT OF ECOLOGY

Watershed Plan Implementation and Flow Achievement (30000591)

Reappropriation:

State Building Construction Account—State	\$889,000
Prior Biennia (Expenditures)	\$4,111,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 3033. FOR THE DEPARTMENT OF ECOLOGY

ASARCO Cleanup (30000670)

Reappropriation:

Cleanup Settlement Account—State	\$17,621,000
Prior Biennia (Expenditures)	\$11,139,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$28,760,000

NEW SECTION. Sec. 3034. FOR THE DEPARTMENT OF ECOLOGY

Waste Tire Pile Cleanup and Prevention (30000672)

Reappropriation:

Waste Tire Removal Account—State	\$47,000
Prior Biennia (Expenditures)	\$953,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 3035. FOR THE DEPARTMENT OF ECOLOGY

Sunnyside Valley Irrigation District Water Conservation (30000673)

Reappropriation:

State Building Construction Account—State	\$2,657,000
---	-------------

Prior Biennia (Expenditures)	\$2,027,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,684,000

NEW SECTION. Sec. 3036. FOR THE DEPARTMENT OF ECOLOGY

2015-17 Restored Eastern Washington Clean Sites Initiative (30000704)

Reappropriation:

State Building Construction Account—State	\$2,342,000
Prior Biennia (Expenditures)	\$94,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,436,000

NEW SECTION. Sec. 3037. FOR THE DEPARTMENT OF ECOLOGY

2017-19 Centennial Clean Water Program (30000705)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3009, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$17,403,000
Prior Biennia (Expenditures)	\$17,597,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$35,000,000

NEW SECTION. Sec. 3038. FOR THE DEPARTMENT OF ECOLOGY

Floodplains by Design 2017-19 (30000706)

Reappropriation:

State Building Construction Account—State	\$24,036,000
Prior Biennia (Expenditures)	\$11,428,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$35,464,000

NEW SECTION. Sec. 3039. FOR THE DEPARTMENT OF ECOLOGY

2017-19 Remedial Action Grants (30000707)

Reappropriation:

Model Toxics Control Capital Account—State	\$3,261,000
Prior Biennia (Expenditures)	\$2,616,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,877,000

NEW SECTION. Sec. 3040. FOR THE DEPARTMENT OF ECOLOGY

Swift Creek Natural Asbestos Flood Control and Cleanup (30000708)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3011, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$1,688,000
Appropriation:	
State Building Construction Account—State	\$2,041,000
Prior Biennia (Expenditures)	\$4,712,000
Future Biennia (Projected Costs)	\$35,400,000
TOTAL	\$43,841,000

NEW SECTION. Sec. 3041. FOR THE DEPARTMENT OF ECOLOGY

Water Pollution Control Revolving Program (30000710)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3013, chapter 2, Laws of 2018.

Reappropriation:

Water Pollution Control Revolving Fund—State	\$160,000,000
Prior Biennia (Expenditures)	\$50,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$210,000,000

NEW SECTION. Sec. 3042. FOR THE DEPARTMENT OF ECOLOGY

Columbia River Water Supply Development Program (30000712)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 3006, chapter 298, Laws of 2018.

Reappropriation:

Columbia River Basin Water Supply Development Account—State	\$9,152,000
Columbia River Basin Water Supply Revenue	
Recovery Account—State	\$2,000,000
State Building Construction Account—State	\$6,569,000
Subtotal Reappropriation	\$17,721,000
Prior Biennia (Expenditures)	\$16,079,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$33,800,000

NEW SECTION. Sec. 3043. FOR THE DEPARTMENT OF ECOLOGY

Watershed Plan Implementation and Flow Achievement (30000714)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3017, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$3,907,000
Prior Biennia (Expenditures)	\$1,093,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 3044. FOR THE DEPARTMENT OF ECOLOGY

Water Irrigation Efficiencies Program (30000740)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3007, chapter 298, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$2,233,000
Prior Biennia (Expenditures)	\$4,267,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,500,000

NEW SECTION. Sec. 3045. FOR THE DEPARTMENT OF ECOLOGY

Eastern Regional Office Improvements and Stormwater Treatment (30000741)

Reappropriation:

State Building Construction Account—State	\$1,503,000
Prior Biennia (Expenditures)	\$2,383,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,886,000

NEW SECTION. Sec. 3046. FOR THE DEPARTMENT OF ECOLOGY

2017-19 Eastern Washington Clean Sites Initiative (30000742)

Reappropriation:

Model Toxics Control Capital Account—State	\$1,740,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,740,000

NEW SECTION. Sec. 3047. FOR THE DEPARTMENT OF ECOLOGY

2017-19 Clean Up Toxic Sites - Puget Sound (30000749)

Reappropriation:

Model Toxics Control Capital Account—State	\$155,000
Prior Biennia (Expenditures)	\$2,027,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,182,000

NEW SECTION. Sec. 3048. FOR THE DEPARTMENT OF ECOLOGY

2015-17 Restored Clean Up Toxic Sites - Puget Sound (30000763)

Reappropriation:

State Building Construction Account—State	\$2,155,000
Prior Biennia (Expenditures)	\$3,085,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,240,000

NEW SECTION. Sec. 3049. FOR THE DEPARTMENT OF ECOLOGY

2017-19 Stormwater Financial Assistance Program (30000796)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriation are subject to the provisions of section 3005, chapter 298, Laws of 2018.

Reappropriation:

Model Toxics Control Stormwater Account—State	\$10,673,000
State Building Construction Account—State	\$23,149,000
Subtotal Reappropriation	\$33,822,000
Prior Biennia (Expenditures)	\$2,578,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$36,400,000

NEW SECTION. Sec. 3050. FOR THE DEPARTMENT OF ECOLOGY

2015-17 Restored Stormwater Financial Assistance (30000797)

Reappropriation:

State Building Construction Account—State	\$21,257,000
Prior Biennia (Expenditures)	\$8,843,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$30,100,000

NEW SECTION. Sec. 3051. FOR THE DEPARTMENT OF ECOLOGY

Catastrophic Flood Relief (40000006)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3023, chapter 2, Laws of 2018.

Reappropriation:

General Fund—Federal	\$10,000,000
Prior Biennia (Expenditures)	\$50,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$60,000,000

NEW SECTION. Sec. 3052. FOR THE DEPARTMENT OF ECOLOGY

VW Settlement Funded Projects (40000018)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3008, chapter 298, Laws of 2018.

Reappropriation:

General Fund—Private/Local	\$109,662,000
Prior Biennia (Expenditures)	\$3,038,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$112,700,000

NEW SECTION. Sec. 3053. FOR THE DEPARTMENT OF ECOLOGY

Reduce Air Pollution from Transit/Sch. Buses/State-Owned Vehicles (40000109)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3019, chapter 356, Laws of 2020.

Reappropriation:

Air Pollution Control Account—State	\$16,099,000
Prior Biennia (Expenditures)	\$12,301,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$28,400,000

NEW SECTION. Sec. 3054. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Water Pollution Control Revolving Program (40000110)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 3074, chapter 413, Laws of 2019.

Reappropriation:

Water Pollution Control Revolving Fund—State	\$148,000,000
Water Pollution Control Revolving Fund—Federal	\$53,837,000
Subtotal Reappropriation	\$201,837,000
Prior Biennia (Expenditures)	\$2,163,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$204,000,000

NEW SECTION. Sec. 3055. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Sunnyside Valley Irrigation District Water Conservation (40000111)

Reappropriation:

State Building Construction Account—State	\$4,197,000
Prior Biennia (Expenditures)	\$37,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,234,000

NEW SECTION. Sec. 3056. FOR THE DEPARTMENT OF ECOLOGY

2019-21 ASARCO Cleanup (40000114)

Reappropriation:

Cleanup Settlement Account—State	\$6,800,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,800,000

NEW SECTION. Sec. 3057. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Reducing Toxic Diesel Emissions (40000115)

Reappropriation:

Air Pollution Control Account—State	\$668,000
Prior Biennia (Expenditures)	\$332,000

Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 3058. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Centennial Clean Water Program (40000116)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3074, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$25,010,000
Prior Biennia (Expenditures)	\$4,990,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$30,000,000

NEW SECTION. Sec. 3059. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Eastern Washington Clean Sites Initiative (40000117)

Reappropriation:

Model Toxics Control Capital Account—State	\$12,108,000
Prior Biennia (Expenditures)	\$2,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,110,000

NEW SECTION. Sec. 3060. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Reducing Toxic Wood Stove Emissions (40000126)

Reappropriation:

Air Pollution Control Account—State	\$590,000
Prior Biennia (Expenditures)	\$1,910,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,500,000

NEW SECTION. Sec. 3061. FOR THE DEPARTMENT OF ECOLOGY

Padilla Bay Federal Capital Projects (40000127)

Reappropriation:

General Fund—Federal	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 3062. FOR THE DEPARTMENT OF ECOLOGY

Mercury Switch Removal (40000128)

Reappropriation:

Model Toxics Control Capital Account—State	\$186,000
Prior Biennia (Expenditures)	\$64,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 3063. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Floodplains by Design (40000129)

Reappropriation:

State Building Construction Account—State	\$46,163,000
Prior Biennia (Expenditures)	\$4,237,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$50,400,000

NEW SECTION. Sec. 3064. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Clean Up Toxics Sites - Puget Sound (40000130)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3080, chapter 413, Laws of 2019.

Reappropriation:

Model Toxics Control Capital Account—State	\$12,415,000
Prior Biennia (Expenditures)	\$352,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,767,000

NEW SECTION. Sec. 3065. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Stormwater Financial Assistance Program (40000144)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3020, chapter 356, Laws of 2020.

Reappropriation:

Model Toxics Control Stormwater Account—State	\$44,617,000
Prior Biennia (Expenditures)	\$4,389,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$49,006,000

NEW SECTION. Sec. 3066. FOR THE DEPARTMENT OF ECOLOGY

2015 Drought Authority (40000146)

Reappropriation:

State Drought Preparedness Account—State	\$669,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$669,000

NEW SECTION. Sec. 3067. FOR THE DEPARTMENT OF ECOLOGY

Waste Tire Pile Cleanup and Prevention (40000147)

Reappropriation:

Waste Tire Removal Account—State	\$369,000
Prior Biennia (Expenditures)	\$631,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 3068. FOR THE DEPARTMENT OF ECOLOGY

Lacey HQ Roof Replacement (40000148)

Reappropriation:

State Building Construction Account—State	\$2,947,000
Prior Biennia (Expenditures)	\$142,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,089,000

NEW SECTION. Sec. 3069. FOR THE DEPARTMENT OF ECOLOGY

Healthy Housing Remediation Program (40000149)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3085, chapter 413, Laws of 2019.

Reappropriation:

Model Toxics Control Capital Account—State	\$5,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 3070. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Columbia River Water Supply Development Program (40000152)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 3087, chapter 413, Laws of 2019.

Reappropriation:

Columbia River Basin Water Supply Revenue	
Recovery Account—State	\$2,400,000
State Building Construction Account—State	\$22,970,000
State Taxable Building Construction Account—	
State	\$10,500,000
Subtotal Reappropriation	\$35,870,000
Prior Biennia (Expenditures)	\$4,130,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$40,000,000

NEW SECTION. Sec. 3071. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Streamflow Restoration Program (40000177)

Reappropriation:

Watershed Restoration and Enhancement Bond	
Account—State	\$31,504,000
Prior Biennia (Expenditures)	\$8,496,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$40,000,000

NEW SECTION. Sec. 3072. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Yakima River Basin Water Supply (40000179)

The reappropriation in this section is subject to the following conditions and limitations:

(1) \$3,250,000 of the appropriation in this section is provided solely for the acquisition of real property in lower Kittitas county known as the Eaton Ranch property by the state through the department of enterprise services on behalf of the department. This appropriation is provided to fund the closing, project, and transaction costs related to the acquisition of the property. The departments must expedite the review and execution of the transaction by June 30, 2022. It is the intent of the legislature that the state hold the property until a transfer to the United States bureau of reclamation for the purposes of construction of a water supply reservoir in accordance with the Yakima Basin integrated plan, or until such purpose is declared by the bureau no longer feasible.

(2) The legislature recognizes and declares that the acquisition of a portion of the Eaton Ranch for the construction of a water supply reservoir in accordance with the goals and objectives of the Yakima Basin integrated plan is a unique circumstance and the Eaton Ranch property offers special and essential features that are expected to yield broad public benefit to the state. It is the intent of the legislature that the department provide the necessary funding through subsequent funding requests to maintain and principally operate the land for grazing of livestock with the local conservation district, or an equivalent organization, until a transfer of the property to the United States bureau of reclamation.

Reappropriation:

State Building Construction Account—State	\$26,212,000
Prior Biennia (Expenditures)	\$13,788,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$40,000,000

NEW SECTION. Sec. 3073. FOR THE DEPARTMENT OF ECOLOGY

Zosel Dam Preservation (40000193)

Reappropriation:

State Building Construction Account—State	\$137,000
Prior Biennia (Expenditures)	\$80,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$217,000

NEW SECTION. Sec. 3074. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Protect Investments in Cleanup Remedies (40000194)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3091, chapter 413, Laws of 2019.

Reappropriation:

Model Toxics Control Capital Account—State	\$6,918,000
Prior Biennia (Expenditures)	\$1,286,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,204,000

NEW SECTION. Sec. 3075. FOR THE DEPARTMENT OF ECOLOGY

Lacey HQ Facility Preservation Project—Minor Works (40000207)

Reappropriation:

State Building Construction Account—State	\$193,000
Prior Biennia (Expenditures)	\$57,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 3076. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Chehalis Basin Strategy (40000209)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3023, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$62,458,000
Prior Biennia (Expenditures)	\$11,449,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$73,907,000

NEW SECTION. Sec. 3077. FOR THE DEPARTMENT OF ECOLOGY

Chemical Action Plan Implementation (40000210)

Reappropriation:

Model Toxics Control Capital Account—State	\$1,883,000
Prior Biennia (Expenditures)	\$1,821,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,704,000

NEW SECTION. Sec. 3078. FOR THE DEPARTMENT OF ECOLOGY

2019-21 Remedial Action Grants (40000211)

Reappropriation:

Model Toxics Control Capital Account—State	\$46,763,000
Prior Biennia (Expenditures)	\$3,201,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$49,964,000

NEW SECTION. Sec. 3079. FOR THE DEPARTMENT OF ECOLOGY

2020 Eastern Washington Clean Sites Initiative (40000286)

Reappropriation:

Model Toxics Control Capital Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 3080. FOR THE DEPARTMENT OF ECOLOGY

2020 Remedial Action Grants (40000288)

Reappropriation:

Model Toxics Control Capital Account—State	\$32,645,000
Prior Biennia (Expenditures)	\$11,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$32,656,000

NEW SECTION. Sec. 3081. FOR THE DEPARTMENT OF ECOLOGY

2021-23 ASARCO Everett Smelter Plume Cleanup (40000303)

Appropriation:

Model Toxics Control Capital Account—State	\$10,814,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,722,000
TOTAL	\$27,536,000

NEW SECTION. Sec. 3082. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Remedial Action Grant Program (40000304)

The appropriation in this section is subject to the following conditions and limitations: During the 2021-2023 fiscal biennium, the department must work with the Port of Everett to develop an extended grant agreement for the Port Weyerhaeuser Mill A project located in Everett harbor, in preparation of the department's 2023-2025 biennial capital budget request for remedial action grant program funding.

Appropriation:

Model Toxics Control Capital Account—State	\$71,194,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$264,800,000
TOTAL	\$335,994,000

NEW SECTION. Sec. 3083. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Stormwater Financial Assistance Program (40000336)

Appropriation:

Model Toxics Control Stormwater Account—State	\$75,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$280,000,000
TOTAL	\$355,000,000

NEW SECTION. Sec. 3084. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Water Pollution Control Revolving Program (40000337)

Appropriation:

Water Pollution Control Revolving Fund—State	\$225,000,000
Water Pollution Control Revolving Fund—Federal	\$75,000,000
Subtotal Appropriation	\$300,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,200,000,000
TOTAL	\$1,500,000,000

NEW SECTION. Sec. 3085. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Waste Tire Pile Cleanup and Prevention (40000338)

Appropriation:

Waste Tire Removal Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$4,000,000
TOTAL	\$5,000,000

NEW SECTION. Sec. 3086. FOR THE DEPARTMENT OF ECOLOGY

2021-23 State Match - Water Pollution Control Revolving Program (40000339)

Appropriation:

Water Pollution Control Revolving Fund—State	\$15,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$60,000,000
TOTAL	\$75,000,000

NEW SECTION. Sec. 3087. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Eastern Washington Clean Sites Initiative (40000340)

Appropriation:

Model Toxics Control Capital Account—State	\$20,820,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$40,000,000
TOTAL	\$60,820,000

NEW SECTION. Sec. 3088. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Clean Up Toxic Sites - Puget Sound (40000346)

Appropriation:

Model Toxics Control Capital Account—State	\$5,808,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$40,000,000
TOTAL	\$45,808,000

NEW SECTION. Sec. 3089. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Centennial Clean Water Program (40000359)

The appropriation in this section is subject to the following conditions and limitations:

(1) For projects involving repair, replacement, or improvement of a clean water infrastructure facility or other public works facility for which an investment grade efficiency audit is reasonably obtainable, the department must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its centennial program grant.

(2) The department must encourage local government use of federally funded clean water infrastructure programs operated by the United States department of agriculture rural development.

Appropriation:

Model Toxics Control Capital Account—State	\$40,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$160,000,000
TOTAL	\$200,000,000

NEW SECTION. Sec. 3090. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Protect Investments in Cleanup Remedies (40000360)

Appropriation:

Model Toxics Control Capital Account—State	\$11,093,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$40,000,000
TOTAL	\$51,093,000

NEW SECTION. Sec. 3091. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Reducing Toxic Wood Stove Emissions (40000371)

The appropriation in this section is subject to the following conditions and limitations: Whenever possible and most cost effective, the agency and local air agency partners must select home heating devices that are certified by the United States environmental protection agency or do not use natural gas to replace noncompliant devices.

Appropriation:

Model Toxics Control Capital Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	\$19,000,000

NEW SECTION. Sec. 3092. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Freshwater Aquatic Invasive Plants Grant Program (40000375)

Appropriation:

Freshwater Aquatic Weeds Account—State	\$1,700,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$6,800,000
TOTAL	\$8,500,000

NEW SECTION. Sec. 3093. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Freshwater Algae Grant Program (40000376)

Appropriation:

Aquatic Algae Control Account—State	\$730,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$3,000,000
TOTAL	\$3,730,000

NEW SECTION. Sec. 3094. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Healthy Housing Remediation Program (40000378)

The appropriation in this section is subject to the following conditions and limitations:

(1)(a) \$10,161,000 of the appropriation in this section is provided solely for the department to establish and administer a program to:

(i) Provide grants or other public funding to persons intending to remediate contaminated real property for development of affordable housing, as defined in RCW 43.185A.010. The grants or public funding may only be used for:

(A) Integrated planning to fund studies and other activities necessary to facilitate the acquisition, remediation, and adaptive reuse of known or suspected contaminated real property for affordable housing development, including:

(I) The activities specified under RCW 70A.305.190(5)(d); and

(II) Entry into development agreements pursuant to RCW 36.70B.170, 36.70B.180, and 36.70B.190 to accelerate the development of the contaminated real property into affordable housing; and

(B) Remediation of contaminated real property for affordable housing development; or

(ii) Remediate contaminated real property where a person intends to develop affordable housing, as defined in RCW 43.185A.010.

(b) When evaluating projects under this section, the department must consult with the department of commerce and consider at a minimum:

(i) The ability of the project to expedite the cleanup and reuse of the contaminated real property for affordable housing development;

(ii) The extent to which the project leverages other public or private funding for the cleanup and reuse of the contaminated real property for affordable housing development;

(iii) The suitability of the real property for affordable housing based on the threat posed by the contamination to human health;

(iv) Whether the work to be funded is ready to proceed and be completed; and

(v) The distribution of funding throughout the state and among public and private entities.

(c) Any remediation of contaminated real property funded under this section must be performed:

(i) Under an agreed order or consent decree issued under chapter 70A.305 RCW or by the department; and

(ii) In accordance with the rules established under chapter 70A.305 RCW.

(d) Real property remediated under this section must be restricted to affordable housing use for a period of no less than 30 years.

(i) To ensure that real property remediated under this section is used for affordable housing, the department may file a lien against the real property pursuant to RCW 70A.305.060, require the person to record an interest in the real property in accordance with RCW 64.04.130, or use other means deemed by the department to be no less protective of the affordable housing use and interests of the department.

(ii) Any person who refuses, without sufficient cause, to comply with this subsection is subject to enforcement pursuant to any agreement or chapter 70A.305 RCW for the repayment, with interest, of funds provided or expended by the department under this section.

(2) \$750,000 of the appropriation in this section is provided solely to mitigate soil contamination of toxic substances to enable the development of affordable housing, at the former University of Washington Mount Baker site,

located at 2901 27th Ave South in Seattle and consisting of approximately four acres of land.

Appropriation:

Model Toxics Control Capital Account—State	\$10,911,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$40,000,000
TOTAL	\$50,911,000

NEW SECTION. Sec. 3095. FOR THE DEPARTMENT OF ECOLOGY

2021-23 ASARCO Tacoma Smelter Plume Cleanup (40000386)

Appropriation:

Cleanup Settlement Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$17,200,000
TOTAL	\$20,200,000

NEW SECTION. Sec. 3096. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Chehalis Basin Strategy (40000387)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$33,050,000 of the appropriation in this section is for board-approved projects to protect and restore aquatic species habitat, including construction and property acquisition; preconstruction and acquisition planning and project development, feasibility, design, environmental review, and permitting; postconstruction and acquisition monitoring and adaptive management; and engagement of state agencies, tribes, conservation partners, landowners, and other parties.

(2) \$33,050,000 of the appropriation in this section is for board-approved projects to reduce flood damage, including construction and property acquisition; preconstruction and acquisition project planning and development, feasibility, design, environmental review, and permitting; and engagement of state agencies, tribes, project sponsors, landowners, and other parties.

(3) \$3,900,000 of the appropriation in this section is for the operations of the office of Chehalis Basin and Chehalis Basin board to oversee the development, implementation, and amendment of the Chehalis Basin strategy. Oversight operations include, but are not limited to: Providing financial accountability, project management, and board meeting administration and facilitation.

(4) Specific projects must be approved by at least six of the seven voting members of the Chehalis Basin Board. The Chehalis Basin Board has the discretion to reallocate the funding between subsections (1), (2), and (3) of this section if needed to meet the objectives of this appropriation and approved by at least six of the seven voting members of the board. However, \$3,900,000 is the maximum amount the department may expend for the purposes of subsection (3) of this section.

(5) Up to 1.5 percent of the appropriation in this section may be used by the recreation and conservation office to administer contracts associated with the subprojects funded through this section. Contract administration includes, but is not limited to: Drafting and amending contracts, reviewing and approving

invoices, tracking expenditures, and performing field inspections to assess project status when conducting similar assessments related to other agency contracts in the same geographic area.

Appropriation:

State Building Construction Account—State	\$70,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$240,000,000
TOTAL	\$310,000,000

NEW SECTION. Sec. 3097. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Coastal Wetlands Federal Funds (40000388)

Appropriation:

General Fund—Federal	\$8,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$32,000,000
TOTAL	\$40,000,000

NEW SECTION. Sec. 3098. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Floodplains by Design (40000389)

Appropriation:

State Building Construction Account—State	\$50,908,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$280,000,000
TOTAL	\$330,908,000

NEW SECTION. Sec. 3099. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Reducing Diesel GHG & Toxic Emissions (40000390)

Appropriation:

Model Toxics Control Capital Account—State	\$15,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$60,000,000
TOTAL	\$75,000,000

NEW SECTION. Sec. 3100. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Sunnyside Valley Irrigation District Water Conservation (40000391)

Appropriation:

State Building Construction Account—State	\$4,281,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$17,124,000
TOTAL	\$21,405,000

NEW SECTION. Sec. 3101. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Puget Sound Nutrient Reduction Grant Program (40000396)

The appropriation in this section is subject to the following conditions and limitations:

The department must use the following criteria to evaluate and prioritize eligible municipalities to receive grant funding under this section:

(1) Location of wastewater treatment facility, prioritizing facilities that are not located within a city with a population of 760,000 or more, as reported by the office of financial management pursuant to RCW 43.62.030;

(2) Age of wastewater treatment facility, prioritizing the oldest eligible facilities; and

(3) Immediacy of need for grant funding to avoid system failure and higher magnitude of contamination.

Appropriation:

State Building Construction Account—State	\$9,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$36,000,000
TOTAL	\$45,000,000

NEW SECTION. Sec. 3102. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Streamflow Restoration Program (40000397)

Appropriation:

Watershed Restoration and Enhancement Bond	
Account—State	\$40,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$160,000,000
TOTAL	\$200,000,000

NEW SECTION. Sec. 3103. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Columbia River Water Supply Development Program (40000399)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$16,000,000 of the appropriation is provided solely to assist in planning, designing, engineering, development coordination, and construction of pump stations or other improvements at the EL 79.2 or associated stations serving the same area that expand the delivery systems of the Odessa groundwater replacement project, sufficient to irrigate at least 13,000 acres. Within amounts appropriated in this subsection:

(a) \$400,000 may be provided to assist the Grant county conservation district in applying for support from the United States department of agriculture-natural resource conservation service to secure federal funding for surface water delivery systems on the Columbia Basin Project.

(b) \$150,000 may be used for improvements at EL 85, including radial arm gates.

(2) \$5,000,000 of the appropriation is provided solely for the continued development and building of the EL 22.1 surface water irrigation system including a canal pump station, an electrical power substation, booster pump stations, and a large diameter full-sized pipeline sufficient to irrigate 16,000 acres.

(3) The east Columbia basin irrigation district may only be allowed to make any administrative charges sufficient to administer the state grants, not to exceed one percent of amounts provided to them within this appropriation, with the

requirement to report administrative expenditures to the office of Columbia river annually.

Appropriation:

Columbia River Basin Water Supply Revenue	
Recovery Account—State	\$1,500,000
State Building Construction Account—State	\$43,500,000
Subtotal Appropriation	\$45,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$160,000,000
TOTAL	\$205,000,000

NEW SECTION. Sec. 3104. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Yakima River Basin Water Supply (40000422)

Appropriation:

State Building Construction Account—State	\$42,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$168,000,000
TOTAL	\$210,000,000

NEW SECTION. Sec. 3105. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Product Replacement Program (40000436)

Appropriation:

Model Toxics Control Capital Account—State	\$6,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$26,000,000
TOTAL	\$32,500,000

NEW SECTION. Sec. 3106. FOR THE DEPARTMENT OF ECOLOGY

Water Availability (91000343)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3011, chapter 298, Laws of 2018.

Reappropriation:

Watershed Restoration and Enhancement Bond Account—State	\$7,943,000
Prior Biennia (Expenditures)	\$5,657,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,600,000

NEW SECTION. Sec. 3107. FOR THE DEPARTMENT OF ECOLOGY

Skagit Water (91000347)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3012, chapter 298, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$2,290,000
---	-------------

Prior Biennia (Expenditures).....	\$210,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$2,500,000

NEW SECTION. Sec. 3108. FOR THE DEPARTMENT OF ECOLOGY

PFAS Pilot Project (91000359)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3103, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$400,000
---	-----------

Appropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,150,000

NEW SECTION. Sec. 3109. FOR THE DEPARTMENT OF ECOLOGY

Storm Water Improvements (92000076)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3028, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$29,293,000
Prior Biennia (Expenditures).....	\$67,673,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$96,966,000

NEW SECTION. Sec. 3110. FOR THE DEPARTMENT OF ECOLOGY

Drought Response (92000142)

Reappropriation:

State Drought Preparedness Account—State.....	\$1,215,000
Prior Biennia (Expenditures).....	\$5,508,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$6,723,000

NEW SECTION. Sec. 3111. FOR THE DEPARTMENT OF ECOLOGY

Port of Tacoma Arkema/Dunlap Mound (92000158)

Reappropriation:

State Building Construction Account—State	\$727,000
Prior Biennia (Expenditures).....	\$2,173,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$2,900,000

NEW SECTION. Sec. 3112. FOR THE DEPARTMENT OF ECOLOGY

2021-23 Water Banking (91000373)

The appropriation in this section is subject to the following conditions and limitations:

(1)(a) The appropriations in this section are provided solely for the department to administer a pilot grant program for water banking strategies to meet local water needs.

(b) \$2,000,000 is provided solely for qualified applicants located within the Methow River Basin.

(2)(a) Grant awards may only be used for:

(i) Development of water banks in rural counties as defined in RCW 82.14.370(5);

(ii) Acquisition of water rights appropriate for use in a water bank including all costs necessary to evaluate the water right for eligibility for its intended use; and

(iii) Activities necessary to facilitate the creation of a water bank.

(b) For applicants located outside of the Methow River Basin, grant awards may only be used for the development of water banks in rural counties that have the headwaters of a major watershed within their borders and only for water banking strategies within the county of origin. For purposes of this section, "major watershed" has the same meaning as shoreline of statewide significance in RCW 90.58.030(2)(f)(v) (A) and (B).

(3) Grant awards may not exceed \$2,000,000 per applicant.

(4) For the purposes of a grant pursuant to this section, a water bank must meet water needs, which include, but are not limited to, agricultural use and instream flow for fish and wildlife. The water bank must preserve water rights for use in the county of origin and for permanent instream flows for fish and wildlife through the primary and secondary reaches of the water right.

(5) To be eligible to receive a grant under this section, an applicant must:

(a) Be a public entity or a participant in a public-private partnership with a public entity;

(b) Exhibit sufficient expertise and capacity to develop and maintain a water bank consistent with the purposes of this appropriation;

(c) Secure a valid interest to purchase a water right;

(d) Show that the water rights appear to be adequate for the intended use; and

(e) Agree to have one-third of any water right purchased with the funds appropriated under this section to have its purpose of use changed permanently to instream flow benefiting fish and wildlife.

Appropriation:

State Building Construction Account—State	\$5,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 3113. FOR THE DEPARTMENT OF ECOLOGY

Pier 63 Creosote Removal (92000193)

Appropriation:

Model Toxics Control Capital Account—State	\$1,500,000
--	-------------

Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 3114. FOR THE POLLUTION LIABILITY INSURANCE PROGRAM

Underground Storage Tank Capital Program Demonstration and Design (30000001)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3085, chapter 3, Laws of 2015 3rd sp. sess.

Reappropriation:

Pollution Liability Insurance Program Trust	
Account—State	\$228,000
Prior Biennia (Expenditures).....	\$1,572,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,800,000

NEW SECTION. Sec. 3115. FOR THE POLLUTION LIABILITY INSURANCE PROGRAM

Underground Storage Tank Capital Financial Assistance Program (30000002)

Reappropriation:

PLIA Underground Storage Tank Revolving Account—	
State	\$1,638,000
Prior Biennia (Expenditures).....	\$6,318,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$7,956,000

NEW SECTION. Sec. 3116. FOR THE POLLUTION LIABILITY INSURANCE PROGRAM

Leaking Tank Model Remedies (30000669)

Reappropriation:

State Building Construction Account—State	\$639,000
Prior Biennia (Expenditures).....	\$467,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,106,000

NEW SECTION. Sec. 3117. FOR THE POLLUTION LIABILITY INSURANCE PROGRAM

Underground Storage Tank Capital Financing Assistance Pgm 2019-21 (30000702)

Reappropriation:

Pollution Liability Insurance Agency Underground Storage Tank Revolving Account—State	
.....	\$11,650,000
Prior Biennia (Expenditures).....	\$850,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$12,500,000

NEW SECTION. Sec. 3118. FOR THE POLLUTION LIABILITY INSURANCE PROGRAM

2019-21 Leaking Tank Model Remedies Activity (30000703)

Reappropriation:

Pollution Liability Insurance Program Trust
 Account—State \$732,000

Appropriation:

Pollution Liability Insurance Program Trust
 Account—State \$263,000
 Prior Biennia (Expenditures) \$32,000
 Future Biennia (Projected Costs) \$1,052,000
 TOTAL \$2,079,000

NEW SECTION. Sec. 3119. FOR THE POLLUTION LIABILITY INSURANCE PROGRAM

Heating Oil Capital Financing Assistance Program (30000704)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3026, chapter 356, Laws of 2020.

Reappropriation:

PLIA Underground Storage Tank Revolving Account—
 State \$4,000,000
 Prior Biennia (Expenditures) \$0
 Future Biennia (Projected Costs) \$0
 TOTAL \$4,000,000

NEW SECTION. Sec. 3120. FOR THE POLLUTION LIABILITY INSURANCE PROGRAM

2021-23 Underground Storage Tank Capital Financial Assistance Pgm (30000705)

Appropriation:

PLIA Underground Storage Tank Revolving Account—
 State \$12,000,000
 Prior Biennia (Expenditures) \$0
 Future Biennia (Projected Costs) \$48,000,000
 TOTAL \$60,000,000

NEW SECTION. Sec. 3121. FOR THE POLLUTION LIABILITY INSURANCE PROGRAM

2021-23 Heating Oil Capital Financing Assistance Program (30000706)

Appropriation:

PLIA Underground Storage Tank Revolving Account—
 State \$8,000,000
 Prior Biennia (Expenditures) \$0
 Future Biennia (Projected Costs) \$32,000,000
 TOTAL \$40,000,000

NEW SECTION. Sec. 3122. FOR THE POLLUTION LIABILITY INSURANCE PROGRAM

Underground Storage Tank Capital Financial Assistance Pgm 2017-19 (92000001)

Reappropriation:

PLIA Underground Storage Tank Revolving Account—

State	\$10,330,000
Prior Biennia (Expenditures).....	\$2,370,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$12,700,000

NEW SECTION. Sec. 3123. FOR THE STATE PARKS AND RECREATION COMMISSION

Fort Flagler - Welcome Center Replacement (30000097)

Appropriation:

State Building Construction Account—State	\$1,446,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,446,000

NEW SECTION. Sec. 3124. FOR THE STATE PARKS AND RECREATION COMMISSION

Fort Simcoe - Historic Officers Quarters Renovation (30000155)

Reappropriation:

State Building Construction Account—State	\$208,000
Prior Biennia (Expenditures).....	\$84,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$292,000

NEW SECTION. Sec. 3125. FOR THE STATE PARKS AND RECREATION COMMISSION

Sun Lakes State Park: Dry Falls Campground Renovation (30000305)

Reappropriation:

State Building Construction Account—State	\$305,000
Prior Biennia (Expenditures).....	\$97,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$402,000

NEW SECTION. Sec. 3126. FOR THE STATE PARKS AND RECREATION COMMISSION

Lake Chelan State Park Moorage Dock Pile Replacement (30000416)

Reappropriation:

State Building Construction Account—State	\$821,000
Prior Biennia (Expenditures).....	\$1,023,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,844,000

NEW SECTION. Sec. 3127. FOR THE STATE PARKS AND RECREATION COMMISSION

Willapa Hills Trail Develop Safe Multi-Use Trail Crossing at SR 6 (30000519)

Reappropriation:

State Building Construction Account—State	\$4,902,000
Prior Biennia (Expenditures).....	\$481,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$5,383,000

NEW SECTION. Sec. 3128. FOR THE STATE PARKS AND RECREATION COMMISSION

Schafer Relocate Campground (30000532)

Reappropriation:

State Building Construction Account—State	\$3,978,000
Prior Biennia (Expenditures)	\$788,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,766,000

NEW SECTION. Sec. 3129. FOR THE STATE PARKS AND RECREATION COMMISSION

Steamboat Rock Build Dunes Campground (30000729)

Reappropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$4,137,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,337,000

NEW SECTION. Sec. 3130. FOR THE STATE PARKS AND RECREATION COMMISSION

Kopachuck Day Use Development (30000820)

Reappropriation:

State Building Construction Account—State	\$4,914,000
Prior Biennia (Expenditures)	\$1,024,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,938,000

NEW SECTION. Sec. 3131. FOR THE STATE PARKS AND RECREATION COMMISSION

Local Grant Authority (30000857)

Appropriation:

Parks Renewal and Stewardship Account—	
Private/Local	\$2,000,000
Prior Biennia (Expenditures)	\$4,516,000
Future Biennia (Projected Costs)	\$8,000,000
TOTAL	\$14,516,000

NEW SECTION. Sec. 3132. FOR THE STATE PARKS AND RECREATION COMMISSION

Federal Grant Authority (30000858)

Appropriation:

General Fund—Federal	\$750,000
Prior Biennia (Expenditures)	\$1,900,000
Future Biennia (Projected Costs)	\$3,000,000
TOTAL	\$5,650,000

NEW SECTION. Sec. 3133. FOR THE STATE PARKS AND RECREATION COMMISSION

Lake Sammamish Dock Grant Match (30000872)

Reappropriation:

State Building Construction Account—State	\$938,000
Prior Biennia (Expenditures)	\$142,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,080,000

NEW SECTION. Sec. 3134. FOR THE STATE PARKS AND RECREATION COMMISSION

Birch Bay - Repair Failing Bridge (30000876)

Reappropriation:

State Building Construction Account—State	\$55,000
Prior Biennia (Expenditures)	\$193,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$248,000

NEW SECTION. Sec. 3135. FOR THE STATE PARKS AND RECREATION COMMISSION

Fort Worden - Pier & Marine Learning Center Improve or Replace (30000950)

Reappropriation:

State Building Construction Account—State	\$26,000
Prior Biennia (Expenditures)	\$708,000
Future Biennia (Projected Costs)	\$11,016,000
TOTAL	\$11,750,000

NEW SECTION. Sec. 3136. FOR THE STATE PARKS AND RECREATION COMMISSION

Field Spring Replace Failed Sewage Syst & Non-ADA Comfort Station (30000951)

Reappropriation:

State Building Construction Account—State	\$1,023,000
Prior Biennia (Expenditures)	\$245,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,268,000

NEW SECTION. Sec. 3137. FOR THE STATE PARKS AND RECREATION COMMISSION

Mount Spokane - Maintenance Facility Relocation from Harms Way (30000959)

Reappropriation:

State Building Construction Account—State	\$1,834,000
Prior Biennia (Expenditures)	\$607,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,441,000

NEW SECTION. Sec. 3138. FOR THE STATE PARKS AND RECREATION COMMISSION

Parkland Acquisition (30000976)

Appropriation:

Parkland Acquisition Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$2,245,000
Future Biennia (Projected Costs)	\$8,000,000
TOTAL	\$12,245,000

NEW SECTION. Sec. 3139. FOR THE STATE PARKS AND RECREATION COMMISSION

Minor Works - Facilities and Infrastructure (30000978)

Reappropriation:

State Building Construction Account—State	\$338,000
---	-----------

Prior Biennia (Expenditures)	\$4,253,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,591,000

NEW SECTION. Sec. 3140. FOR THE STATE PARKS AND RECREATION COMMISSION

Penrose Point Sewer Improvements (30000981)

Reappropriation:

State Building Construction Account—State	\$629,000
Prior Biennia (Expenditures)	\$110,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$739,000

NEW SECTION. Sec. 3141. FOR THE STATE PARKS AND RECREATION COMMISSION

Palouse Falls Day Use Area Renovation (30000983)

Reappropriation:

State Building Construction Account—State	\$217,000
Prior Biennia (Expenditures)	\$3,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$220,000

NEW SECTION. Sec. 3142. FOR THE STATE PARKS AND RECREATION COMMISSION

Lake Sammamish Sunset Beach Picnic Area (30000984)

Reappropriation:

State Building Construction Account—State	\$2,383,000
Prior Biennia (Expenditures)	\$377,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,760,000

NEW SECTION. Sec. 3143. FOR THE STATE PARKS AND RECREATION COMMISSION

Statewide Water System Renovation (30001016)

Reappropriation:

State Building Construction Account—State	\$103,000
Prior Biennia (Expenditures)	\$397,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 3144. FOR THE STATE PARKS AND RECREATION COMMISSION

Statewide Electrical System Renovation (30001018)

Reappropriation:

State Building Construction Account—State	\$100,000
Prior Biennia (Expenditures)	\$629,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$729,000

NEW SECTION. Sec. 3145. FOR THE STATE PARKS AND RECREATION COMMISSION

Statewide New Park (30001019)

Reappropriation:

State Building Construction Account—State	\$256,000
Prior Biennia (Expenditures)	\$57,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$313,000

NEW SECTION. Sec. 3146. FOR THE STATE PARKS AND RECREATION COMMISSION

Steptoe Butte Road Improvements (30001076)

Reappropriation:

State Building Construction Account—State	\$178,000
Prior Biennia (Expenditures)	\$288,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$466,000

NEW SECTION. Sec. 3147. FOR THE STATE PARKS AND RECREATION COMMISSION

Statewide Fish Barrier Removal (40000010)

Reappropriation:

State Building Construction Account—State	\$1,605,000
Prior Biennia (Expenditures)	\$300,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,905,000

NEW SECTION. Sec. 3148. FOR THE STATE PARKS AND RECREATION COMMISSION

Statewide Electric Vehicle Charging Stations (40000016)

Reappropriation:

State Building Construction Account—State	\$175,000
Prior Biennia (Expenditures)	\$25,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$200,000

NEW SECTION. Sec. 3149. FOR THE STATE PARKS AND RECREATION COMMISSION

Preservation Minor Works 2019-21 (40000151)

Reappropriation:

State Building Construction Account—State	\$1,139,000
Prior Biennia (Expenditures)	\$3,308,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,447,000

NEW SECTION. Sec. 3150. FOR THE STATE PARKS AND RECREATION COMMISSION

Nisqually New Full Service Park (40000153)

Reappropriation:

State Building Construction Account—State	\$2,788,000
---	-------------

Appropriation:

State Building Construction Account—State	\$11,126,000
Prior Biennia (Expenditures)	\$1,069,000
Future Biennia (Projected Costs)	\$20,945,000
TOTAL	\$35,928,000

NEW SECTION. Sec. 3151. FOR THE STATE PARKS AND RECREATION COMMISSION

Palouse to Cascade Trail - Crab Creek Trestle Replacement (40000162)

Reappropriation:

State Building Construction Account—State	\$79,000
Prior Biennia (Expenditures)	\$171,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 3152. FOR THE STATE PARKS AND RECREATION COMMISSION

Fort Flagler Historic Theater Restoration (40000188)

Appropriation:

State Building Construction Account—State	\$196,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,030,000
TOTAL	\$1,226,000

NEW SECTION. Sec. 3153. FOR THE STATE PARKS AND RECREATION COMMISSION

Nisqually Day Use Improvements (40000202)

Appropriation:

State Building Construction Account—State	\$383,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,828,000
TOTAL	\$17,211,000

NEW SECTION. Sec. 3154. FOR THE STATE PARKS AND RECREATION COMMISSION

Saint Edward Maintenance Facility (40000218)

Appropriation:

State Building Construction Account—State	\$2,199,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,199,000

NEW SECTION. Sec. 3155. FOR THE STATE PARKS AND RECREATION COMMISSION

Minor Works - Preservation 2021-23 (40000364)

Appropriation:

State Building Construction Account—State	\$7,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,000,000

NEW SECTION. Sec. 3156. FOR THE STATE PARKS AND RECREATION COMMISSION

Minor Works - Program 2021-23 (40000365)

Appropriation:

State Building Construction Account—State	\$1,936,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,936,000

NEW SECTION. Sec. 3157. FOR THE STATE PARKS AND RECREATION COMMISSION

2021-23 Recreational Marine Sewage Disposal Program (CVA) (40000366)

Appropriation:

General Fund—Federal	\$2,600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$10,400,000
TOTAL	\$13,000,000

NEW SECTION. Sec. 3158. FOR THE STATE PARKS AND RECREATION COMMISSION

Forest Health & Hazard Reduction 2021-23 (40000371)

Appropriation:

State Building Construction Account—State	\$800,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$800,000

NEW SECTION. Sec. 3159. FOR THE STATE PARKS AND RECREATION COMMISSION

Comfort Station Pilot Project (91000433)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3043, chapter 298, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$54,000
Prior Biennia (Expenditures)	\$1,113,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,167,000

NEW SECTION. Sec. 3160. FOR THE STATE PARKS AND RECREATION COMMISSION

Fort Flagler Campground Road Relocation (91000434)

Appropriation:

State Building Construction Account—State	\$660,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$660,000

NEW SECTION. Sec. 3161. FOR THE STATE PARKS AND RECREATION COMMISSION

State Parks Capital Preservation Pool (92000014)

Reappropriation:

State Building Construction Account—State	\$11,239,000
Prior Biennia (Expenditures)	\$19,761,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$31,000,000

NEW SECTION. Sec. 3162. FOR THE STATE PARKS AND RECREATION COMMISSION

St. Edward Environmental Education and Research Center (92000016)

Reappropriation:

State Building Construction Account—State	\$264,000
Prior Biennia (Expenditures)	\$486,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$750,000

NEW SECTION. Sec. 3163. FOR THE STATE PARKS AND RECREATION COMMISSION

2021-23 State Parks Capital Preservation Pool (92000017)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for a pool of eligible projects owned by the state parks and recreation commission.

(2) The following projects are the only projects eligible for funding in this section:

- (a) Larrabee Water System Replacement;
- (b) Cape Disappointment - Welcome Center and Entrance Improvements;
- (c) Blake Island Marine Facilities Improvements;
- (d) Cape Disappointment: Campground Access Road Culverts;
- (e) Twenty-Five Mile Creek - Replace Moorage Floats;
- (f) Maryhill Parkwide Septic System Overhaul;
- (g) Palouse to Cascade Trail - Crab Creek Trestle Replacement;
- (h) Mount Spokane - Maintenance Facility Relocation from Harms Way;
- (i) Sun Lakes Replace Primary Lift Station;
- (j) Lyons Ferry Campground Reestablishment;
- (k) Pearygin Lake West Campground Development;
- (l) Palouse Falls Day Use Area Renovation;
- (m) Birch Bay - Repair Failing Bridge;
- (n) Centennial Trail Paving Repair and Overlay;
- (o) Deception Pass - Bowman Bay Pier Replacement;
- (p) Ike Kinswa: Main Campground Loop Utility Upgrades;
- (q) South Whidbey - Campground to Day Use Conversion;
- (r) Wallace Falls Water System Replacement;
- (s) Willapa Hills Trail: Bridge 48 and Trail Relocation;
- (t) Statewide - Facility & Infrastructure Backlog Reduction 2021-23;
- (u) Statewide - ADA Compliance 2021-23;
- (v) Statewide - Code/Regulatory Compliance 2021-23;
- (w) Statewide - Marine Facilities Rehabilitation 2021-23;
- (x) Palouse to Cascades Trail - Repair Trestles and Trail Access;
- (y) Electrical, Water and Sewer Infrastructure Preservation 2021-23;
- (z) Statewide Park Paving Projects 2021-23;
- (aa) Statewide Park Comfort Station Replacements 2021-23;
- (bb) Wallace Falls Parking Expansion;
- (cc) Lake Wenatchee-Pedestrian Bridge; and
- (dd) Twanoh-Shoreline Restoration.

(3) The commission shall report to the governor and the appropriate committees of the legislature the list of projects with funding levels, allotments, and schedules for the projects in this section by January 1, 2022.

Appropriation:

State Building Construction Account—State	\$39,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$39,500,000

NEW SECTION. Sec. 3164. FOR THE RECREATION AND CONSERVATION OFFICE

Washington Wildlife Recreation Grants (30000139)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely for the list of projects in LEAP capital document No. 2011-3A, developed May 24, 2011.

Reappropriation:

Outdoor Recreation Account—State	\$637,000
Prior Biennia (Expenditures)	\$41,363,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$42,000,000

NEW SECTION. Sec. 3165. FOR THE RECREATION AND CONSERVATION OFFICE

Washington Wildlife Recreation Grants (30000205)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 3161, chapter 19, Laws of 2013 2nd sp. sess.

Reappropriation:

Farm and Forest Account—State	\$616,000
Habitat Conservation Account—State	\$132,000
Outdoor Recreation Account—State	\$2,189,000
Riparian Protection Account—State	\$470,000
Subtotal Reappropriation	\$3,407,000
Prior Biennia (Expenditures)	\$61,593,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$65,000,000

NEW SECTION. Sec. 3166. FOR THE RECREATION AND CONSERVATION OFFICE

Salmon Recovery Funding Board Programs (30000206)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3162, chapter 19, Laws of 2013 2nd sp. sess.

Reappropriation:

General Fund—Federal	\$5,334,000
Prior Biennia (Expenditures)	\$55,768,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$61,102,000

NEW SECTION. Sec. 3167. FOR THE RECREATION AND CONSERVATION OFFICE

Aquatic Lands Enhancement Account (30000210)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation in this section is provided solely for the list of projects in LEAP capital document No. 2013-2B, developed April 10, 2013.

Reappropriation:

Aquatic Lands Enhancement Account—State	\$124,000
Prior Biennia (Expenditures)	\$5,876,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,000,000

NEW SECTION. Sec. 3168. FOR THE RECREATION AND CONSERVATION OFFICE

Puget Sound Acquisition and Restoration (30000211)

Reappropriation:

State Building Construction Account—State	\$903,000
Prior Biennia (Expenditures)	\$69,097,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$70,000,000

NEW SECTION. Sec. 3169. FOR THE RECREATION AND CONSERVATION OFFICE

Puget Sound Estuary and Salmon Restoration Program (30000212)

Reappropriation:

State Building Construction Account—State	\$226,000
Prior Biennia (Expenditures)	\$9,774,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,000,000

NEW SECTION. Sec. 3170. FOR THE RECREATION AND CONSERVATION OFFICE

Land and Water Conservation (30000216)

Reappropriation:

General Fund—Federal	\$495,000
Prior Biennia (Expenditures)	\$3,505,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 3171. FOR THE RECREATION AND CONSERVATION OFFICE

Washington Wildlife Recreation Grants (30000220)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations in this section are provided solely for the list of projects in LEAP capital document No. 2015-1, developed June 30, 2015.

Reappropriation:

Farm and Forest Account—State	\$1,181,000
Habitat Conservation Account—State	\$2,910,000
Outdoor Recreation Account—State	\$3,268,000
Riparian Protection Account—State	\$1,345,000
Subtotal Reappropriation	\$8,704,000
Prior Biennia (Expenditures)	\$46,619,000
Future Biennia (Projected Costs)	\$0

TOTAL \$55,323,000

NEW SECTION. Sec. 3172. FOR THE RECREATION AND CONSERVATION OFFICE

Salmon Recovery Funding Board Programs (30000221)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 3164, chapter 3, Laws of 2015 3rd sp. sess.

Reappropriation:

General Fund—Federal	\$515,000
State Building Construction Account—State	\$1,778,000
Subtotal Reappropriation	\$2,293,000
Prior Biennia (Expenditures).....	\$64,052,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$66,345,000

NEW SECTION. Sec. 3173. FOR THE RECREATION AND CONSERVATION OFFICE

Boating Facilities Program (30000222)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3024, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

Recreation Resources Account—State	\$49,000
Prior Biennia (Expenditures).....	\$14,161,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$14,210,000

NEW SECTION. Sec. 3174. FOR THE RECREATION AND CONSERVATION OFFICE

Nonhighway Off-Road Vehicle Activities (30000223)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3025, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

NOVA Program Account—State	\$344,000
Prior Biennia (Expenditures).....	\$11,481,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$11,825,000

NEW SECTION. Sec. 3175. FOR THE RECREATION AND CONSERVATION OFFICE

Youth Athletic Facilities (30000224)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3167, chapter 3, Laws of 2015 3rd sp. sess.

Reappropriation:

State Building Construction Account—State	\$1,296,000
Prior Biennia (Expenditures)	\$10,024,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,320,000

NEW SECTION. Sec. 3176. FOR THE RECREATION AND CONSERVATION OFFICE

Aquatic Lands Enhancement Account (30000225)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation in this section is provided solely for the list of projects in LEAP capital document No. 2015-2, developed June 30, 2015.

Reappropriation:

Aquatic Lands Enhancement Account—State	\$268,000
Prior Biennia (Expenditures)	\$5,001,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,269,000

NEW SECTION. Sec. 3177. FOR THE RECREATION AND CONSERVATION OFFICE

Puget Sound Acquisition and Restoration (30000226)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3169, chapter 3, Laws of 2015 3rd sp. sess.

Reappropriation:

State Building Construction Account—State	\$1,792,000
Prior Biennia (Expenditures)	\$35,208,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$37,000,000

NEW SECTION. Sec. 3178. FOR THE RECREATION AND CONSERVATION OFFICE

Puget Sound Estuary and Salmon Restoration Program (30000227)

Reappropriation:

State Building Construction Account—State	\$82,000
Prior Biennia (Expenditures)	\$7,918,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,000,000

NEW SECTION. Sec. 3179. FOR THE RECREATION AND CONSERVATION OFFICE

Firearms and Archery Range Recreation (30000228)

Reappropriation:

Firearms Range Account—State	\$41,000
Prior Biennia (Expenditures)	\$428,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$469,000

NEW SECTION. Sec. 3180. FOR THE RECREATION AND CONSERVATION OFFICE

Recreational Trails Program (30000229)

Reappropriation:

General Fund—Federal	\$607,000
Prior Biennia (Expenditures)	\$3,980,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,587,000

NEW SECTION. Sec. 3181. FOR THE RECREATION AND CONSERVATION OFFICE

Boating Infrastructure Grants (30000230)

Reappropriation:

General Fund—Federal	\$632,000
Prior Biennia (Expenditures)	\$1,207,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,839,000

NEW SECTION. Sec. 3182. FOR THE RECREATION AND CONSERVATION OFFICE

Land and Water Conservation (30000231)

Reappropriation:

General Fund—Federal	\$474,000
Prior Biennia (Expenditures)	\$3,317,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,791,000

NEW SECTION. Sec. 3183. FOR THE RECREATION AND CONSERVATION OFFICE

Family Forest Fish Passage Program (30000233)

Reappropriation:

State Building Construction Account—State	\$160,000
Prior Biennia (Expenditures)	\$4,840,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 3184. FOR THE RECREATION AND CONSERVATION OFFICE

Salmon Recovery Funding Board Programs (30000408)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 3070, chapter 2, Laws of 2018.

Reappropriation:

General Fund—Federal	\$32,369,000
State Building Construction Account—State	\$1,642,000
Subtotal Reappropriation	\$34,011,000
Prior Biennia (Expenditures)	\$32,202,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$66,213,000

NEW SECTION. Sec. 3185. FOR THE RECREATION AND CONSERVATION OFFICE

2017-19 Washington Wildlife Recreation Grants (30000409)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations in this section are provided solely for the list of projects in LEAP capital document No. 2017-42, developed July 20, 2017, and LEAP capital document No. 2018-6H, developed January 3, 2018.

Reappropriation:

Farm and Forest Account—State	\$5,860,000
Habitat Conservation Account—State	\$12,592,000
Outdoor Recreation Account—State	\$12,474,000
Subtotal Reappropriation	\$30,926,000
Prior Biennia (Expenditures)	\$49,074,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$80,000,000

NEW SECTION. Sec. 3186. FOR THE RECREATION AND CONSERVATION OFFICE

Boating Facilities Program (30000410)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3072, chapter 2, Laws of 2018.

Reappropriation:

Recreation Resources Account—State	\$5,902,000
Prior Biennia (Expenditures)	\$11,273,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$17,175,000

NEW SECTION. Sec. 3187. FOR THE RECREATION AND CONSERVATION OFFICE

Nonhighway Off-Road Vehicle Activities (30000411)

Reappropriation:

NOVA Program Account—State	\$895,000
Prior Biennia (Expenditures)	\$12,300,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,195,000

NEW SECTION. Sec. 3188. FOR THE RECREATION AND CONSERVATION OFFICE

Youth Athletic Facilities (30000412)

Reappropriation:

State Building Construction Account—State	\$1,302,000
Prior Biennia (Expenditures)	\$2,775,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,077,000

NEW SECTION. Sec. 3189. FOR THE RECREATION AND CONSERVATION OFFICE

Aquatic Lands Enhancement Account (30000413)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations in this section are provided solely for the list of projects in LEAP capital document No. 2018-9H, developed March 5, 2018.

Reappropriation:

Aquatic Lands Enhancement Account—State	\$884,000
State Building Construction Account—State	\$2,732,000
Subtotal Reappropriation	\$3,616,000
Prior Biennia (Expenditures)	\$8,669,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,285,000

NEW SECTION. Sec. 3190. FOR THE RECREATION AND CONSERVATION OFFICE

Puget Sound Acquisition and Restoration (30000414)

Reappropriation:

State Building Construction Account—State	\$16,640,000
Prior Biennia (Expenditures)	\$23,360,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$40,000,000

NEW SECTION. Sec. 3191. FOR THE RECREATION AND CONSERVATION OFFICE

Puget Sound Estuary and Salmon Restoration Program (30000415)

Reappropriation:

State Building Construction Account—State	\$3,020,000
Prior Biennia (Expenditures)	\$4,980,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,000,000

NEW SECTION. Sec. 3192. FOR THE RECREATION AND CONSERVATION OFFICE

Firearms and Archery Range Recreation (30000416)

Reappropriation:

Firearms Range Account—State	\$561,000
Prior Biennia (Expenditures)	\$252,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$813,000

NEW SECTION. Sec. 3193. FOR THE RECREATION AND CONSERVATION OFFICE

Recreational Trails Program (30000417)

Reappropriation:

General Fund—Federal	\$253,000
Prior Biennia (Expenditures)	\$4,747,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 3194. FOR THE RECREATION AND CONSERVATION OFFICE

Land and Water Conservation (30000419)

Reappropriation:

General Fund—Federal	\$835,000
Prior Biennia (Expenditures)	\$3,127,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,962,000

NEW SECTION. Sec. 3195. FOR THE RECREATION AND CONSERVATION OFFICE

Washington Coastal Restoration Initiative (30000420)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3082, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$5,769,000
Prior Biennia (Expenditures)	\$6,731,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,500,000

NEW SECTION. Sec. 3196. FOR THE RECREATION AND CONSERVATION OFFICE

Family Forest Fish Passage Program (40000001)

Reappropriation:

State Building Construction Account—State	\$106,000
Prior Biennia (Expenditures)	\$4,894,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 3197. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Washington Wildlife Recreation Grants (40000002)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 3200, chapter 413, Laws of 2019.

Reappropriation:

Farm and Forest Account—State	\$6,880,000
Habitat Conservation Account—State	\$20,349,000
Outdoor Recreation Account—State	\$28,025,000
Subtotal Reappropriation	\$55,254,000
Prior Biennia (Expenditures)	\$29,746,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$85,000,000

NEW SECTION. Sec. 3198. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Salmon Recovery Funding Board Programs (40000004)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 3201, chapter 413, Laws of 2019.

Reappropriation:

General Fund—Federal	\$41,394,000
State Building Construction Account—State	\$17,918,000
Subtotal Reappropriation	\$59,312,000
Prior Biennia (Expenditures)	\$15,688,000
Future Biennia (Projected Costs)	\$0

TOTAL \$75,000,000

NEW SECTION. Sec. 3199. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Boating Facilities Program (40000005)

Reappropriation:

Recreation Resources Account—State \$14,494,000
Prior Biennia (Expenditures) \$3,378,000
Future Biennia (Projected Costs) \$0
TOTAL \$17,872,000

NEW SECTION. Sec. 3200. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Nonhighway Off-Road Vehicle Activities (40000006)

Reappropriation:

NOVA Program Account—State \$8,031,000
Prior Biennia (Expenditures) \$3,380,000
Future Biennia (Projected Costs) \$0
TOTAL \$11,411,000

NEW SECTION. Sec. 3201. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Youth Athletic Facilities (40000007)

The reappropriation in this section is subject to the following conditions and limitations: The amounts reappropriated in this section may be awarded only to projects approved by the legislature, as identified in LEAP capital documents No. 2020-467-HSBA, developed February 25, 2020, and No. 2020-467-HB, developed February 14, 2020.

Reappropriation:

State Building Construction Account—State \$7,597,000
Prior Biennia (Expenditures) \$4,403,000
Future Biennia (Projected Costs) \$0
TOTAL \$12,000,000

NEW SECTION. Sec. 3202. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Aquatic Lands Enhancement Account (40000008)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation in this section is provided solely for the list of projects identified in LEAP capital document No. 2019-6H, developed April 27, 2019.

Reappropriation:

State Building Construction Account—State \$6,044,000
Prior Biennia (Expenditures) \$556,000
Future Biennia (Projected Costs) \$0
TOTAL \$6,600,000

NEW SECTION. Sec. 3203. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Outdoor Recreation Equity (40000049)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$2,325,000 of the appropriation in this section is provided solely for the recreation and conservation office to provide planning, technical assistance, and predesign grants for projects that would directly benefit populations and communities that lack access to outdoor recreation facilities and resources. It is the intent of the legislature that these grants be available for: (a) Early action on, and in response to, the comprehensive equity review required of the recreation and conservation office during the 2021-2023 fiscal biennium; and (b) for reduction of barriers to participation in recreation and conservation office grant programs due to race, ethnicity, religion, income, geography, disability, and educational attainment. In awarding grants under this subsection, the recreation and conservation office shall prioritize applications that would directly benefit racially diverse neighborhoods within dense urban areas and small, rural communities where these grants would increase access to outdoor recreation facilities and resources by reducing access gaps. In ranking and sizing grants directly benefiting these groups, the recreation and conservation office shall also consider the financial capacity of the applicant and of the community that the grant would benefit.

(2) \$1,500,000 of the appropriation in this section is provided solely for the Trust for Public Lands' Metro Parks/Tacoma Schools Green Schoolyards Pilot, for projects at the following six schools: (a) Helen B. Stafford Elementary School; (b) Jennie Reed Elementary School; (c) Mann Elementary School; (d) Whitman Elementary School; (e) IDEA (Industrial Design, Engineering and Art) School; and (f) Larchmont Elementary School.

(3) \$100,000 of the appropriation in this section is provided solely for the Trust for Public Lands' East Wenatchee Eastmont Park District/9th Street Park project.

(4) \$75,000 of the appropriation in this section is provided solely for the Trust for Public Lands to develop a statewide open space/recreation equity assessment tool to accomplish the following: (a) Expand the assessment tool outside of the Central Puget Sound region; and (b) to provide neighborhood data on open space and recreational access throughout Washington.

Appropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 3204. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Puget Sound Acquisition and Restoration (40000009)

Reappropriation:

State Building Construction Account—State	\$32,525,000
Prior Biennia (Expenditures)	\$16,982,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$49,507,000

NEW SECTION. Sec. 3205. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Puget Sound Estuary and Salmon Restoration Program (40000010)

Reappropriation:

State Building Construction Account—State	\$6,947,000
Prior Biennia (Expenditures)	\$3,053,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,000,000

NEW SECTION. Sec. 3206. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Washington Coastal Restoration Initiative (40000011)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3208, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$10,000,000
Prior Biennia (Expenditures)	\$2,086,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$12,086,000

NEW SECTION. Sec. 3207. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Brian Abbott Fish Barrier Removal Board (40000012)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3209, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$19,822,000
Prior Biennia (Expenditures)	\$6,669,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$26,491,000

NEW SECTION. Sec. 3208. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Firearms and Archery Range (40000013)

Reappropriation:

Firearms Range Account—State	\$510,000
Prior Biennia (Expenditures)	\$225,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$735,000

NEW SECTION. Sec. 3209. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Recreational Trails Program (40000014)

Reappropriation:

General Fund—Federal	\$4,224,000
Prior Biennia (Expenditures)	\$776,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 3210. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Boating Infrastructure Grants (40000015)

Reappropriation:

General Fund—Federal	\$2,181,000
Prior Biennia (Expenditures)	\$19,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,200,000

NEW SECTION. Sec. 3211. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 - Land and Water Conservation Fund (40000016)

Reappropriation:

General Fund—Federal	\$4,072,000
Prior Biennia (Expenditures)	\$1,928,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,000,000

NEW SECTION. Sec. 3212. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 Family Forest Fish Passage Program (40000017)

Reappropriation:

State Building Construction Account—State	\$3,767,000
Prior Biennia (Expenditures)	\$1,233,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 3213. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Washington Wildlife Recreation Grants (40000019)

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are provided solely for the list of projects identified in LEAP capital document No. 2021-42, developed April 15, 2021.

Appropriation:

Farm and Forest Account—State	\$10,000,000
Habitat Conservation Account—State	\$45,000,000
Outdoor Recreation Account—State	\$45,000,000
Subtotal Appropriation	\$100,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$480,000,000
TOTAL	\$580,000,000

NEW SECTION. Sec. 3214. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Salmon Recovery Funding Board Programs (40000021)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,400,000 of the state building construction account—state appropriation is provided solely to maintain the lead entity program as described in chapter 77.85 RCW.

(2) \$640,000 of the state building construction account—state appropriation is provided solely for regional fisheries enhancement groups created in RCW 77.95.060.

Appropriation:

General Fund—Federal	\$50,000,000
State Building Construction Account—State	\$30,000,000
Subtotal Appropriation	\$80,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$400,000,000
TOTAL	\$480,000,000

NEW SECTION. Sec. 3215. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Boating Facilities Program (40000023)

Appropriation:

Recreation Resources Account—State	\$14,950,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$60,000,000
TOTAL	\$74,950,000

NEW SECTION. Sec. 3216. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Nonhighway Off-Road Vehicle Activities (40000025)

Appropriation:

NOVA Program Account—State	\$10,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$40,000,000
TOTAL	\$50,000,000

NEW SECTION. Sec. 3217. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Youth Athletic Facilities (40000027)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for projects approved by the legislature, as identified in LEAP capital document No. RCO-2-HB-2021, developed April 15, 2021.

Appropriation:

State Building Construction Account—State	\$11,227,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$44,908,000
TOTAL	\$56,135,000

NEW SECTION. Sec. 3218. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Aquatic Lands Enhancement Account (40000029)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for projects

approved by the legislature, as identified in LEAP capital document No. RCO-3.1-HB-2021, developed April 15, 2021.

Appropriation:

State Building Construction Account—State	\$9,100,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$36,400,000
TOTAL	\$45,500,000

NEW SECTION. Sec. 3219. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Puget Sound Acquisition and Restoration (40000031)

Appropriation:

State Building Construction Account—State	\$52,807,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$219,800,000
TOTAL	\$272,607,000

NEW SECTION. Sec. 3220. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Washington Coastal Restoration Initiative (40000033)

The appropriation in this section is subject to the following conditions and limitations:

(1) The board may retain a portion of the funds appropriated in this section for the administration of the grants. The portion of the funds retained for administration may not exceed 4.12 percent of the appropriation.

(2) The appropriation in this section is provided solely for projects approved by the legislature, as identified in LEAP capital document No. RCO-4-HB-2021, developed April 15, 2021.

Appropriation:

State Building Construction Account—State	\$10,313,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$60,000,000
TOTAL	\$70,313,000

NEW SECTION. Sec. 3221. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Brian Abbott Fish Barrier Removal Board (40000035)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for projects approved by the legislature, as identified in LEAP capital document No. RCO-5-HB-2021, developed April 15, 2021.

(2) The recreation and conservation funding board may retain a portion of the funds appropriated in this section for the administration of the grants. The portion of the funds retained for administration may not exceed three percent of the appropriation.

(3) The department of fish and wildlife may retain a portion of the funds appropriated in this section for the Brian Abbott fish barrier removal board for technical assistance in developing projects for consideration. The portion of the

funds retained for technical assistance may not exceed 4.12 percent of the appropriation.

Appropriation:

State Building Construction Account—State	\$26,795,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$107,180,000
TOTAL	\$133,975,000

NEW SECTION. Sec. 3222. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Firearms and Archery Range (40000037)

Appropriation:

Firearms Range Account—State	\$630,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$2,520,000
TOTAL	\$3,150,000

NEW SECTION. Sec. 3223. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Recreational Trails Program (40000039)

Appropriation:

General Fund—Federal	\$5,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$15,000,000
TOTAL	\$20,000,000

NEW SECTION. Sec. 3224. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Boating Infrastructure Grants (40000041)

Appropriation:

General Fund—Federal	\$2,200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$6,600,000
TOTAL	\$8,800,000

NEW SECTION. Sec. 3225. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Land and Water Conservation Fund (40000043)

Appropriation:

General Fund—Federal	\$20,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$80,000,000
TOTAL	\$100,000,000

NEW SECTION. Sec. 3226. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Puget Sound Estuary and Salmon Restoration Program (40000045)

The appropriation in this section is subject to the following conditions and limitations:

(1) The amounts appropriated in this section are provided solely for projects approved by the legislature, as identified in LEAP capital document No. RCO-7.1-HB-2021, developed April 15, 2021.

(2) Moneys from the appropriation in this section may not be expended for the Elwha Estuary Conservation and Restoration subproject.

Appropriation:

State Building Construction Account—State	\$15,708,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$80,000,000
TOTAL	\$95,708,000

NEW SECTION. Sec. 3227. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Community Forest Grant Program (40000047)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the list of projects identified in LEAP capital document No. 2021-25, developed April 15, 2021. The office may retain up to four percent of the appropriation for administrative costs, including costs for activities related to this section.

Appropriation:

State Building Construction Account—State	\$16,299,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$65,196,000
TOTAL	\$81,495,000

NEW SECTION. Sec. 3228. FOR THE RECREATION AND CONSERVATION OFFICE

2021-23 - Family Forest Fish Passage Program (40000050)

Appropriation:

State Building Construction Account—State	\$5,957,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$24,000,000
TOTAL	\$29,957,000

NEW SECTION. Sec. 3229. FOR THE RECREATION AND CONSERVATION OFFICE

Coastal Restoration Grants (91000448)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3177, chapter 3, Laws of 2015 3rd sp. sess.

Reappropriation:

State Building Construction Account—State	\$152,000
Prior Biennia (Expenditures)	\$11,033,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$11,185,000

NEW SECTION. Sec. 3230. FOR THE RECREATION AND CONSERVATION OFFICE

Upper Quinault River Restoration Project (91000958)

Reappropriation:

State Building Construction Account—State \$1,359,000

Appropriation:

State Building Construction Account—State \$1,000,000
Prior Biennia (Expenditures) \$641,000
Future Biennia (Projected Costs) \$0
TOTAL \$3,000,000

NEW SECTION. Sec. 3231. FOR THE RECREATION AND CONSERVATION OFFICE

Brian Abbott Fish Passage Barrier Removal Board (91000566)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3085, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State \$3,198,000
Prior Biennia (Expenditures) \$16,549,000
Future Biennia (Projected Costs) \$0
TOTAL \$19,747,000

NEW SECTION. Sec. 3232. FOR THE RECREATION AND CONSERVATION OFFICE

Recreation & Conservation Office Recreation Grants (92000131)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 3049, chapter 356, Laws of 2020.

Reappropriation:

Outdoor Recreation Account—State \$132,000
State Building Construction Account—State \$5,859,000
Subtotal Reappropriation \$5,991,000
Prior Biennia (Expenditures) \$28,790,000
Future Biennia (Projected Costs) \$0
TOTAL \$34,781,000

NEW SECTION. Sec. 3233. FOR THE RECREATION AND CONSERVATION OFFICE

2019-21 Community Forest Pilot (92000447)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3219, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State \$675,000
Prior Biennia (Expenditures) \$250,000
Future Biennia (Projected Costs) \$0
TOTAL \$925,000

NEW SECTION. Sec. 3234. FOR THE RECREATION AND CONSERVATION OFFICE

Statewide Multi-modal Trails Database (92000448)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is provided solely for the recreation and conservation office to develop an official statewide database of paved and unpaved multimodal trails that displays a network of local, regional, and statewide trails that connect, or have the potential of connecting, to provide transportation alternatives that are available to public access. In developing the database and trails network, the office must use and build upon trails work done by Washington state parks and recreation commission and local and regional governments and the active transportation plan developed by the department of transportation. The office should consider the inventorying and mapping efforts already undertaken by nonprofit and private organizations provided that the office deems the information meets their needs for data standards and integrity and the trails are understood to be open and available for use by the public.

(2) Using the existing spatial data collected under subsection (1) of this section, the office must maintain a statewide network of public recreational and commuter routes to facilitate the stewardship of a statewide trails system. The network of trails and the trails database must be developed in a manner that allows the office to update data on a regular basis in consultation and collaboration with other state agencies, cities, counties, parks and recreation districts, regional governments, and private and nonprofit organizations.

Appropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$200,000

NEW SECTION. Sec. 3235. FOR THE STATE CONSERVATION COMMISSION

Match for Federal RCPP Program (30000017)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3033, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

General Fund—Federal	\$1,492,000
Prior Biennia (Expenditures)	\$5,724,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,216,000

NEW SECTION. Sec. 3236. FOR THE STATE CONSERVATION COMMISSION

2019-21 Improve Shellfish Growing Areas (40000004)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3221, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$1,970,000
Prior Biennia (Expenditures)	\$2,030,000

Future Biennia (Projected Costs).....	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 3237. FOR THE STATE CONSERVATION COMMISSION

2019-21 Natural Resource Investments (40000005)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3222, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$2,367,000
Prior Biennia (Expenditures).....	\$1,633,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 3238. FOR THE STATE CONSERVATION COMMISSION

2019-21 Match for Federal RCPP (40000006)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3051, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$5,123,000
Prior Biennia (Expenditures).....	\$1,126,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$6,249,000

NEW SECTION. Sec. 3239. FOR THE STATE CONSERVATION COMMISSION

2019-21 Water Irrigation Efficiencies Program (40000009)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3224, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$3,880,000
Prior Biennia (Expenditures).....	\$120,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 3240. FOR THE STATE CONSERVATION COMMISSION

2019-21 CREP PIP Loan Program (40000010)

Reappropriation:

Conservation Assistance Revolving Account—State	\$100,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$100,000

NEW SECTION. Sec. 3241. FOR THE STATE CONSERVATION COMMISSION

2021-23 Conservation Reserve Enhancement Program (CREP) (40000013)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$2,000,000 of the appropriation is provided solely for technical assistance to private landowners.

(2) \$250,000 of the appropriation is provided solely for a targeted riparian buffer incentive project (Mount Vernon).

Appropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$26,000,000
TOTAL	\$30,000,000

NEW SECTION. Sec. 3242. FOR THE STATE CONSERVATION COMMISSION

2021-23 Water Irrigation Efficiencies Program (40000014)

Appropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	\$18,000,000

NEW SECTION. Sec. 3243. FOR THE STATE CONSERVATION COMMISSION

2021-23 Conservation Reserve Enhancement Program (CREP) PIP Loan (40000015)

Appropriation:

Conservation Assistance Revolving Account—State	\$160,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$160,000

NEW SECTION. Sec. 3244. FOR THE STATE CONSERVATION COMMISSION

2021-23 Natural Resource Investment for the Economy & Environment (40000016)

The appropriation in this section is subject to the following conditions and limitations: Up to five percent of the appropriation provided may be used by the conservation commission to acquire services of licensed engineers for project development, predesign and design services, and construction oversight for projects.

Appropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$20,000,000
TOTAL	\$24,000,000

NEW SECTION. Sec. 3245. FOR THE STATE CONSERVATION COMMISSION

2021-23 Regional Conservation Partnership Program (RCPP) Match (40000017)

Appropriation:

State Building Construction Account—State	\$7,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$22,500,000
TOTAL	\$29,500,000

NEW SECTION. Sec. 3246. FOR THE STATE CONSERVATION COMMISSION

2021-23 Improve Shellfish Growing Areas (40000018)

The appropriation in this section is subject to the following conditions and limitations: Up to five percent of the appropriation provided may be used by the conservation commission to acquire services of licensed engineers for project development, predesign and design services, and construction oversight for shellfish projects.

Appropriation:

State Building Construction Account—State	\$3,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	\$19,500,000

NEW SECTION. Sec. 3247. FOR THE STATE CONSERVATION COMMISSION

CREP Riparian Cost Share - State Match 2017-19 (91000009)

Reappropriation:

State Building Construction Account—State	\$1,553,000
Prior Biennia (Expenditures)	\$1,047,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,600,000

NEW SECTION. Sec. 3248. FOR THE STATE CONSERVATION COMMISSION

2019-21 CREP Riparian Contract Funding (91000015)

Reappropriation:

State Building Construction Account—State	\$629,000
Prior Biennia (Expenditures)	\$1,271,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,900,000

NEW SECTION. Sec. 3249. FOR THE STATE CONSERVATION COMMISSION

2019-21 CREP Riparian Cost Share - State Match (91000017)

Reappropriation:

State Building Construction Account—State	\$1,800,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,800,000

NEW SECTION. Sec. 3250. FOR THE STATE CONSERVATION COMMISSION

Conservation Commission Ranch & Farmland Preservation Projects (92000004)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3230, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$4,662,000
Prior Biennia (Expenditures)	\$2,860,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,522,000

NEW SECTION. Sec. 3251. FOR THE STATE CONSERVATION COMMISSION

Natural Resource Investment for the Economy & Environment 2017-19 (92000011)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3090, chapter 2, Laws of 2018.

Reappropriation:

General Fund—Federal	\$1,000,000
Prior Biennia (Expenditures)	\$4,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 3252. FOR THE STATE CONSERVATION COMMISSION

Match for Federal RCPP Program 2017-19 (92000013)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3053, chapter 298, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$3,033,000
Prior Biennia (Expenditures)	\$967,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 3253. FOR THE STATE CONSERVATION COMMISSION

CREP PIP Loan Program 2017-19 (92000014)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 6019, chapter 413, Laws of 2019.

Reappropriation:

Conservation Assistance Revolving Account—State	\$350,000
Prior Biennia (Expenditures)	\$50,000

Future Biennia (Projected Costs).....	\$0
TOTAL	\$400,000

NEW SECTION. Sec. 3254. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Deschutes Watershed Center (20062008)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3063, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$2,387,000
Prior Biennia (Expenditures).....	\$13,108,000
Future Biennia (Projected Costs).....	\$36,000,000
TOTAL	\$51,495,000

NEW SECTION. Sec. 3255. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Migratory Waterfowl Habitat (20082045)

Reappropriation:

Limited Fish and Wildlife Account—State	\$350,000
---	-----------

Appropriation:

Limited Fish and Wildlife Account—State	\$600,000
Prior Biennia (Expenditures).....	\$1,923,000
Future Biennia (Projected Costs).....	\$1,800,000
TOTAL	\$4,673,000

NEW SECTION. Sec. 3256. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Mitigation Projects and Dedicated Funding (20082048)

Reappropriation:

General Fund—Federal	\$7,000,000
General Fund—Private/Local	\$1,767,000
Special Wildlife Account—Federal.....	\$1,953,000
Special Wildlife Account—Private/Local	\$1,800,000
Limited Fish and Wildlife Account—State	\$400,000
Subtotal Reappropriation	\$12,920,000

Appropriation:

General Fund—Federal	\$10,000,000
General Fund—Private/Local	\$1,000,000
Special Wildlife Account—Federal.....	\$1,000,000
Special Wildlife Account—Private/Local	\$1,000,000
Limited Fish and Wildlife Account—State	\$500,000
Subtotal Appropriation	\$13,500,000
Prior Biennia (Expenditures).....	\$85,801,000
Future Biennia (Projected Costs).....	\$63,000,000
TOTAL	\$175,221,000

NEW SECTION. Sec. 3257. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Eells Spring Hatchery Renovation (30000214)

Reappropriation:

State Building Construction Account—State	\$789,000
Prior Biennia (Expenditures)	\$704,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,493,000

NEW SECTION. Sec. 3258. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Samish Hatchery Intakes (30000276)

Reappropriation:

State Building Construction Account—State	\$4,500,000
Prior Biennia (Expenditures)	\$4,232,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,732,000

NEW SECTION. Sec. 3259. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minter Hatchery Intakes (30000277)

Reappropriation:

State Building Construction Account—State	\$7,833,000
Prior Biennia (Expenditures)	\$1,078,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,911,000

NEW SECTION. Sec. 3260. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Wooten Wildlife Area Improve Flood Plain (30000481)

Reappropriation:

General Fund—Federal	\$500,000
State Building Construction Account—State	\$750,000
Subtotal Reappropriation	\$1,250,000
Prior Biennia (Expenditures)	\$9,450,000
Future Biennia (Projected Costs)	\$17,006,000
TOTAL	\$27,706,000

NEW SECTION. Sec. 3261. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Wallace River Hatchery - Replace Intakes and Ponds (30000660)

Reappropriation:

State Building Construction Account—State	\$12,280,000
---	--------------

Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$1,525,000
Future Biennia (Projected Costs)	\$12,333,000
TOTAL	\$27,638,000

NEW SECTION. Sec. 3262. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Soos Creek Hatchery Renovation (30000661)

Reappropriation:

State Building Construction Account—State	\$1,400,000
---	-------------

Appropriation:

State Building Construction Account—State	\$3,695,000
Prior Biennia (Expenditures)	\$14,946,000

Future Biennia (Projected Costs).....	\$0
TOTAL	\$20,041,000

NEW SECTION. Sec. 3263. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Cooperative Elk Damage Fencing (30000662)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3243, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$300,000
---	-----------

Appropriation:

State Building Construction Account—State	\$1,200,000
Prior Biennia (Expenditures).....	\$2,100,000
Future Biennia (Projected Costs).....	\$3,600,000
TOTAL	\$7,200,000

NEW SECTION. Sec. 3264. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Spokane Hatchery Renovation (30000663)

Appropriation:

State Building Construction Account—State	\$2,800,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$18,735,000
TOTAL	\$21,535,000

NEW SECTION. Sec. 3265. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Edmonds Pier Renovation (30000664)

Reappropriation:

State Building Construction Account—State	\$146,000
Prior Biennia (Expenditures).....	\$654,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$800,000

NEW SECTION. Sec. 3266. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Hazard Fuel Reductions, Forest Health and Ecosystem Improvement (30000665)

Reappropriation:

State Building Construction Account—State	\$1,130,000
---	-------------

Appropriation:

Forest Resiliency Account—State.....	\$6,000,000
Prior Biennia (Expenditures).....	\$5,870,000
Future Biennia (Projected Costs).....	\$24,000,000
TOTAL	\$37,000,000

NEW SECTION. Sec. 3267. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Naselle Hatchery Renovation (30000671)

Reappropriation:

State Building Construction Account—State	\$2,600,000
Appropriation:	
State Building Construction Account—State	\$15,000,000
Prior Biennia (Expenditures)	\$5,532,000
Future Biennia (Projected Costs)	\$9,753,000
TOTAL	\$32,885,000

NEW SECTION. Sec. 3268. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Eells Springs Production Shift (30000723)

Reappropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$3,570,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,070,000

NEW SECTION. Sec. 3269. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minor Works Preservation (30000756)

Reappropriation:

State Building Construction Account—State	\$600,000
Prior Biennia (Expenditures)	\$8,900,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$9,500,000

NEW SECTION. Sec. 3270. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minor Works - Programmatic (30000782)

Reappropriation:

State Building Construction Account—State	\$265,000
Prior Biennia (Expenditures)	\$2,560,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,825,000

NEW SECTION. Sec. 3271. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Snow Creek Reconstruct Facility (30000826)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3057, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$70,000
---	----------

Appropriation:

State Building Construction Account—State	\$900,000
Prior Biennia (Expenditures)	\$166,000
Future Biennia (Projected Costs)	\$7,060,000
TOTAL	\$8,196,000

NEW SECTION. Sec. 3272. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Forks Creek Hatchery - Renovate Intake and Diversion (30000827)

Reappropriation:

State Building Construction Account—State \$2,420,000

Appropriation:

State Building Construction Account—State \$511,000

Prior Biennia (Expenditures) \$3,441,000

Future Biennia (Projected Costs) \$0

TOTAL \$6,372,000

NEW SECTION. Sec. 3273. FOR THE DEPARTMENT OF FISH AND

WILDLIFE

Hurd Creek - Relocate Facilities out of Floodplain (30000830)

Reappropriation:

State Building Construction Account—State \$200,000

Appropriation:

State Building Construction Account—State \$11,894,000

Prior Biennia (Expenditures) \$577,000

Future Biennia (Projected Costs) \$0

TOTAL \$12,671,000

NEW SECTION. Sec. 3274. FOR THE DEPARTMENT OF FISH AND

WILDLIFE

Dungeness Hatchery - Replace Main Intake (30000844)

Reappropriation:

State Building Construction Account—State \$300,000

Prior Biennia (Expenditures) \$3,606,000

Future Biennia (Projected Costs) \$0

TOTAL \$3,906,000

NEW SECTION. Sec. 3275. FOR THE DEPARTMENT OF FISH AND

WILDLIFE

PSNERP Match (30000846)

Reappropriation:

General Fund—Federal \$5,754,000

State Building Construction Account—State \$2,750,000

Subtotal Reappropriation \$8,504,000

Appropriation:

General Fund—Federal \$34,809,000

Prior Biennia (Expenditures) \$774,000

Future Biennia (Projected Costs) \$461,662,000

TOTAL \$505,749,000

NEW SECTION. Sec. 3276. FOR THE DEPARTMENT OF FISH AND

WILDLIFE

Kalama Falls Hatchery Replace Raceways and PA System (30000848)

Reappropriation:

State Building Construction Account—State \$519,000

Prior Biennia (Expenditures) \$297,000

Future Biennia (Projected Costs) \$0

TOTAL \$816,000

NEW SECTION. Sec. 3277. FOR THE DEPARTMENT OF FISH AND

WILDLIFE

Wiley Slough Dike Raising (40000004)

Reappropriation:

State Building Construction Account—State\$900,000

Appropriation:

State Building Construction Account—State \$5,481,000

Prior Biennia (Expenditures)..... \$72,000

Future Biennia (Projected Costs)..... \$0

TOTAL \$6,453,000

NEW SECTION. Sec. 3278. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Scatter Creek Wildlife Area Fire Damage (40000005)

Reappropriation:

State Building Construction Account—State\$550,000

Prior Biennia (Expenditures).....\$781,000

Future Biennia (Projected Costs)..... \$0

TOTAL \$1,331,000

NEW SECTION. Sec. 3279. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minor Works Preservation 2019-21 (40000007)

Reappropriation:

State Building Construction Account—State \$2,400,000

Prior Biennia (Expenditures)..... \$5,630,000

Future Biennia (Projected Costs)..... \$0

TOTAL \$8,030,000

NEW SECTION. Sec. 3280. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minor Works Programmatic 2019-21 (40000008)

Reappropriation:

State Building Construction Account—State \$1,750,000

Prior Biennia (Expenditures).....\$677,000

Future Biennia (Projected Costs)..... \$0

TOTAL \$2,427,000

NEW SECTION. Sec. 3281. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Toutle River Fish Collection Facility - Match (40000021)

The appropriations in this section are subject to the following conditions and limitations:

(1) The reappropriation in this section is provided solely for the department to purchase easements as part of sediment abatement.

(2) The appropriation in this section is provided solely for project obligations related to modular housing replacement.

Reappropriation:

State Building Construction Account—State \$6,371,000

Appropriation:

State Building Construction Account—State\$239,000

Prior Biennia (Expenditures).....\$404,000

Future Biennia (Projected Costs)..... \$4,312,000

TOTAL \$11,326,000

NEW SECTION. Sec. 3282. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Elochoman Hatchery Demolition and Restoration (40000024)

Reappropriation:

General Fund—Federal	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$250,000

NEW SECTION. Sec. 3283. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Snohomish County Wildlife Rehabilitation Facility (PAWS) (40000025)

Reappropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 3284. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Region 1 Office - Construct Secure Storage (40000087)

Reappropriation:

State Building Construction Account—State	\$57,000
Prior Biennia (Expenditures)	\$93,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$150,000

NEW SECTION. Sec. 3285. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minor Works Preservation 21-23 (40000089)

Appropriation:

State Building Construction Account—State	\$8,990,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,990,000

NEW SECTION. Sec. 3286. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minor Works Program 21-23 (40000092)

Appropriation:

State Building Construction Account—State	\$2,928,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,928,000

NEW SECTION. Sec. 3287. FOR THE DEPARTMENT OF FISH AND WILDLIFE

SRKW - New Cowlitz River Hatchery (40000145)

Appropriation:

State Building Construction Account—State	\$300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$38,486,000
TOTAL	\$38,786,000

NEW SECTION. Sec. 3288. FOR THE DEPARTMENT OF FISH AND WILDLIFE

SRKW - Kendall Creek Hatchery Modifications (40000146)

Appropriation:

State Building Construction Account—State	\$4,317,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,317,000

NEW SECTION. Sec. 3289. FOR THE DEPARTMENT OF FISH AND WILDLIFE

SRKW - Sol Duc Hatchery Modifications (40000147)

Appropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$6,697,000
TOTAL	\$6,897,000

NEW SECTION. Sec. 3290. FOR THE DEPARTMENT OF FISH AND WILDLIFE

SRKW - Voights Creek Hatchery Modifications (40000148)

Appropriation:

State Building Construction Account—State	\$3,551,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,551,000

NEW SECTION. Sec. 3291. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Lake Rufus Woods Fishing Access (91000151)

Reappropriation:

State Building Construction Account—State	\$347,000
Prior Biennia (Expenditures)	\$2,653,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 3292. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Leque Island Highway 532 Road Protection (92000019)

Reappropriation:

State Building Construction Account—State	\$160,000
Prior Biennia (Expenditures)	\$520,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$680,000

NEW SECTION. Sec. 3293. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Naches Rearing Ponds (92000049)

Appropriation:

State Building Construction Account—State	\$600,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$600,000

NEW SECTION. Sec. 3294. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Shrubsteppe and Rangeland Cooperative Wildlife Fencing (92000050)

The appropriation in this section is subject to the following conditions and limitations: The department shall collaborate with landowners affected by wildfire in shrubsteppe habitat and provide funding to public and private landowners to rebuild wildlife-friendly fences in impacted and prioritized areas.

Appropriation:

State Building Construction Account—State	\$1,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 3295. FOR THE DEPARTMENT OF NATURAL RESOURCES

Port Angeles Storm Water Repair (40000015)

Appropriation:

Model Toxics Control Stormwater Account—State	\$1,020,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,020,000

NEW SECTION. Sec. 3296. FOR THE DEPARTMENT OF NATURAL RESOURCES

Airway Heights Facility Replacement (40000025)

Appropriation:

State Building Construction Account—State	\$4,200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,200,000

NEW SECTION. Sec. 3297. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 State Forest Land Replacement (40000085)

The appropriation in this section is subject to the following conditions and limitations:

(1)(a) The appropriation is provided solely to the department to transfer from state forestland status to natural resources conservation area status certain state forestlands in counties with:

- (i) A population of 25,000 or fewer; and
- (ii) Risks of timber harvest deferrals greater than 30 years due to the presence of wildlife species listed as endangered or threatened under the federal endangered species act.

(b) This appropriation must be used equally for the transfer of qualifying state forestlands in the qualifying counties.

(2) Property transferred under this section must be appraised and transferred at fair market value, without consideration of management or regulatory encumbrances associated with wildlife species listed under the federal endangered species act. The value of the timber and other valuable materials

transferred must be distributed as provided in RCW 79.64.110. The value of the land transferred must be deposited in the park land trust revolving account and be used solely to buy replacement state forestland, consistent with RCW 79.22.060.

(3) Prior to or concurrent with conveyance of these properties, the department shall execute and record a real property instrument that dedicates the transferred properties to the purposes identified in subsection (1) of this section. Transfer agreements for properties identified in subsection (1) of this section must include terms that restrict the use of the property to the intended purpose.

(4) The department and applicable counties shall work in good faith to carry out the intent of this section. The department shall identify eligible properties for transfer, consistent with subsections (1) and (2) of this section, in consultation with the applicable counties, and may not execute any property transfers that are not in the statewide interest of either the state forest trust or the natural resources conservation area program.

Appropriation:

State Building Construction Account—State	\$4,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,500,000

NEW SECTION. Sec. 3298. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Structurally Deficient Bridges (40000086)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation in this section is provided solely for the following projects: (a) The Naked Falls/Stebbins Creek bridge replacement in Skamania county; (b) the Shale Creek bridge repair in Jefferson county; and (c) the Coal Creek bridge replacement in Clallam county.

Appropriation:

State Building Construction Account—State	\$1,050,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$10,000,000
TOTAL	\$11,050,000

NEW SECTION. Sec. 3299. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Sustainable Recreation (40000088)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for projects approved by the legislature, as identified in LEAP capital document No. DNR-2.1-HB-2021, developed April 19, 2021.

Appropriation:

State Building Construction Account—State	\$3,248,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,248,000

NEW SECTION. Sec. 3300. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Trust Land Replacement (40000089)

Appropriation:

Community and Technical College Forest Reserve	
Account—State	\$1,000,000
Natural Resources Real Property Replacement	
Account—State	\$30,000,000
Resource Management Cost Account—State	\$30,000,000
Subtotal Appropriation	\$61,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$244,000,000
TOTAL	\$305,000,000

NEW SECTION. Sec. 3301. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Forest Legacy (40000090)

Appropriation:

General Fund—Federal	\$17,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$68,000,000
TOTAL	\$85,000,000

NEW SECTION. Sec. 3302. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Land Acquisition Grants (40000091)

Appropriation:

General Fund—Federal	\$10,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$40,000,000
TOTAL	\$50,000,000

NEW SECTION. Sec. 3303. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Road Maintenance and Abandonment Planning (40000092)

The appropriation in this section is subject to the following conditions and limitations:

(1) Except as provided for under subsection (2) of this section, the appropriation in this section is provided solely for projects approved by the legislature, as identified in LEAP capital document No. DNR-3-HB-2021, developed April 15, 2021.

(2) The department may fund road maintenance and abandonment planning projects not listed in the LEAP capital document under subsection (1) of this section in either of the following instances: (a) If there is excess appropriation authority remaining after completion of all of the listed projects; or (b) if there is a documented public safety or operational concern at a different road maintenance and abandonment planning project location that the department determines is urgent. The department may not use the funding provided in this section for a study.

Appropriation:

State Building Construction Account—State	\$1,878,000
---	-------------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$10,000,000
TOTAL	\$11,878,000

NEW SECTION. Sec. 3304. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Natural Areas Facilities Preservation and Access (40000093)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for projects approved by the legislature, as identified in LEAP capital document No. DNR-4.1-HB-2021, developed April 19, 2021.

Appropriation:

State Building Construction Account—State	\$4,005,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,005,000

NEW SECTION. Sec. 3305. FOR THE DEPARTMENT OF NATURAL RESOURCES

Omak Consolidation, Expansion and Relocation (40000033)

Reappropriation:

State Building Construction Account—State	\$107,000
Prior Biennia (Expenditures)	\$1,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$108,000

NEW SECTION. Sec. 3306. FOR THE DEPARTMENT OF NATURAL RESOURCES

Trust Land Transfer Program (40000034)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3281, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$1,675,000
Prior Biennia (Expenditures)	\$4,725,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,400,000

NEW SECTION. Sec. 3307. FOR THE DEPARTMENT OF NATURAL RESOURCES

Road Maintenance and Abandonment Plan (RMAP) (40000037)

Reappropriation:

State Building Construction Account—State	\$2,184,000
Prior Biennia (Expenditures)	\$1,582,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,766,000

NEW SECTION. Sec. 3308. FOR THE DEPARTMENT OF NATURAL RESOURCES

Teaway (40000038)

Reappropriation:

State Building Construction Account—State	\$1,220,000
Prior Biennia (Expenditures)	\$636,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,856,000

NEW SECTION. Sec. 3309. FOR THE DEPARTMENT OF NATURAL RESOURCES

Land Acquisition Grants (40000039)

Reappropriation:

General Fund—Federal	\$5,000,000
Prior Biennia (Expenditures)	\$13,000,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$18,000,000

NEW SECTION. Sec. 3310. FOR THE DEPARTMENT OF NATURAL RESOURCES

Sunshine Mine (40000042)

Reappropriation:

Model Toxics Control Capital Account—State	\$115,000
Prior Biennia (Expenditures)	\$15,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$130,000

NEW SECTION. Sec. 3311. FOR THE DEPARTMENT OF NATURAL RESOURCES

Sustainable Recreation (40000044)

Reappropriation:

State Building Construction Account—State	\$155,000
Prior Biennia (Expenditures)	\$1,705,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,860,000

NEW SECTION. Sec. 3312. FOR THE DEPARTMENT OF NATURAL RESOURCES

Forest Legacy 2019-21 (40000045)

Reappropriation:

General Fund—Federal	\$7,750,000
Prior Biennia (Expenditures)	\$7,250,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$15,000,000

NEW SECTION. Sec. 3313. FOR THE DEPARTMENT OF NATURAL RESOURCES

Natural Areas Facilities 2019-21 (40000046)

Reappropriation:

State Building Construction Account—State	\$295,000
Prior Biennia (Expenditures)	\$1,705,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 3314. FOR THE DEPARTMENT OF NATURAL RESOURCES

Forest Hazard Reduction (40000049)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3292, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$5,979,000
Prior Biennia (Expenditures)	\$8,221,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$14,200,000

NEW SECTION. Sec. 3315. FOR THE DEPARTMENT OF NATURAL RESOURCES

Large Vessel Removals (40000051)

Reappropriation:

State Building Construction Account—State	\$300,000
Prior Biennia (Expenditures)	\$2,200,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,500,000

NEW SECTION. Sec. 3316. FOR THE DEPARTMENT OF NATURAL RESOURCES

Forest Riparian Easement Program (FREP) (40000052)

Reappropriation:

State Building Construction Account—State	\$600,000
Prior Biennia (Expenditures)	\$2,900,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,500,000

NEW SECTION. Sec. 3317. FOR THE DEPARTMENT OF NATURAL RESOURCES

Grouse Ridge Fish Barriers & RMAP Compliance (40000056)

Reappropriation:

State Building Construction Account—State	\$3,210,000
---	-------------

Appropriation:

State Building Construction Account—State	\$1,730,000
Prior Biennia (Expenditures)	\$35,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,975,000

NEW SECTION. Sec. 3318. FOR THE DEPARTMENT OF NATURAL RESOURCES

Emergent Environmental Mitigation Projects (40000058)

Appropriation:

Model Toxics Control Capital Account—State	\$790,000
Prior Biennia (Expenditures)	\$320,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,110,000

NEW SECTION. Sec. 3319. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Minor Works Preservation (40000070)

The appropriation in this section is subject to the following conditions and limitations: \$205,000 of the appropriation in this section is provided solely for communication site preservation and repairs.

Appropriation:

State Building Construction Account—State	\$2,183,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,183,000

NEW SECTION. Sec. 3320. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Minor Works Programmatic (40000071)

Appropriation:

State Building Construction Account—State	\$1,370,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,370,000

NEW SECTION. Sec. 3321. FOR THE DEPARTMENT OF NATURAL RESOURCES

Longview Fire Station Purchase (40000072)

Appropriation:

State Building Construction Account—State	\$995,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$995,000

NEW SECTION. Sec. 3322. FOR THE DEPARTMENT OF NATURAL RESOURCES

Webster Nursery Seed Plant Replacement (40000073)

Appropriation:

State Building Construction Account—State	\$220,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$3,000,000
TOTAL	\$3,220,000

NEW SECTION. Sec. 3323. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Community Forests (40000074)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$100,000 of the appropriation in this section is provided solely for grazing infrastructure projects in Teanaway Community Forest.

(2) \$100,000 of the appropriation in this section is provided solely for wetland improvement projects in Teanaway Community Forest.

Appropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$200,000

NEW SECTION. Sec. 3324. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Derelict Vessel Removal Program (40000075)

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are provided solely for removing high priority abandoned and derelict vessels in Washington's waters, including The Hero in Pacific county.

Appropriation:

State Building Construction Account—State	\$2,250,000
Derelict Vessel Removal Account—State	\$750,000
Subtotal Appropriation	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 3325. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Forestry Riparian Easement Program (40000077)

Appropriation:

State Building Construction Account—State	\$6,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$35,257,000
TOTAL	\$41,257,000

NEW SECTION. Sec. 3326. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Puget Sound Corps (40000079)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$3,200,000 of the appropriation in this section is provided solely for state land recreation, natural areas, aquatics, resource protection, and urban forestry projects statewide.

(2) \$800,000 of the appropriation in this section is provided solely for implementing projects to remove invasive and noxious weeds and creosote-treated wood and to revegetate riparian zones in the Snohomish watershed pursuant to the departments' salmon strategy.

Appropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$32,000,000
TOTAL	\$36,000,000

NEW SECTION. Sec. 3327. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 Rivers and Habitat Open Space Program (40000081)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for projects approved by the legislature, as identified in LEAP capital document No. DNR-7-

HB-2021, developed April 15, 2021. An amount not to exceed \$14,000 is provided solely for the program's administrative costs.

Appropriation:

State Building Construction Account—State	\$1,419,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$24,400,000
TOTAL	\$25,819,000

NEW SECTION. Sec. 3328. FOR THE DEPARTMENT OF NATURAL RESOURCES

Rural Broadband Investment (40000082)

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$600,000 of the appropriation in this section is provided solely for installation of new communication towers at Ellis Peak, Striped Peak, and Paradise Peak.
- (2) \$400,000 of the appropriation in this section is provided solely for communication tower upgrades at Blyn Mountain and Capitol Peak.
- (3) \$20,000 of the appropriation in this section is provided solely for a new generator in Okanogan county.
- (4) \$5,000 of the appropriation in this section is provided solely for a utility connection project in Clallam county.

Appropriation:

Coronavirus Capital Projects Account—Federal.	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 3329. FOR THE DEPARTMENT OF NATURAL RESOURCES

2021-23 School Seismic Safety (40000083)

Appropriation:

State Building Construction Account—State	\$590,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,770,000
TOTAL	\$2,360,000

NEW SECTION. Sec. 3330. FOR THE DEPARTMENT OF NATURAL RESOURCES

Port of Willapa Harbor Energy Innovation District Grant (91000099)

Reappropriation:

State Building Construction Account—State	\$1,400,000
Prior Biennia (Expenditures)	\$100,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 3331. FOR THE DEPARTMENT OF NATURAL RESOURCES

Administrative Site/Minor Works Pool (92000034)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 3303, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures).....	\$8,800,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$9,300,000

NEW SECTION. Sec. 3332. FOR THE DEPARTMENT OF NATURAL RESOURCES

DNR and Camp Colman Collaboration (92000037)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$100,000 is provided solely for the department to contract with a third party facilitator for the purpose of collaborating with the YMCA of greater Seattle, Camp Colman, on finding solutions for maintaining a high-quality camp experience while establishing a barrier free passage for migrating fish species at Whiteman cove.

(2) \$500,000 is provided solely for the department to grant to the YMCA of greater Seattle to retain expertise to scope, plan, and advance the future of the Camp Colman experience given the restoration of the Whiteman cove estuary. The planning process should be inclusive of tribal input, with an open invitation for their participation, and must include department technical experts, participation from the departments of ecology and fish and wildlife, and any other resources needed. The plan should include a vision for how the cove can be returned to a fully functioning estuary, benefiting native flora and fauna, as well as serve as an environmental outdoor educational opportunity that will serve youth and families, especially those from historically marginalized and underrepresented communities, and include educational opportunities for youth and families to learn of native cultural heritage unique and specific to the natural and human history of the site. The plan must identify specific projects and estimated costs, given estuary restoration, for physical improvements for the camp, such as water access structures or swimming facilities, with recommendations for funding. The department, on behalf of the YMCA, must submit the plan in a report to the fiscal committees of the legislature by December 31, 2021.

(3) \$300,000 is provided solely for the department to design the fish blockage removal and predesign enhancements for a new bridge and roadway across Whiteman cove that are part of the fish blockage removal project and necessary as part of maintaining the route as access to the camp. The predesign must take into consideration the means to maintain continuous road access to Camp Colman for campers and camp staff without disruption, ensure the continuation, mitigation and innovation of Camp Colman's recreational, water safety, and environmental education programs in the salt water estuary, and maintain the critical outdoor experiences for historically marginalized and underrepresented communities.

Appropriation:

State Building Construction Account—State	\$900,000
---	-----------

Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$900,000

NEW SECTION. Sec. 3333. FOR THE DEPARTMENT OF NATURAL RESOURCES

Trust Land Transfer Stakeholder Report (92000038)

The appropriation in this section is subject to the following conditions and limitations:

(1) The department of natural resources shall convene a work group of trust land beneficiaries and stakeholders to develop a recommended process for the way trust land transfer proposals are developed and implemented. Consideration should be made for increasing the income value of the trusts, limiting impacts to trust lands not being considered for transfer, conservation value of lands that are a potential candidate for transfer, and use of the land bank for securing repositioned land that would result from any transferred projects, and any other items necessary for a well-supported program. The department must report and make recommendations for the establishment of a new trust land transfer program to the fiscal committees of the legislature by December 1, 2021.

(2) For the 2021-2023 fiscal biennium, the department may not trade, transfer, or sell any valuable material from the four parcels that comprised the proposed trust land transfer parcels in 2019-21, known as Blakely Island, Devils Lake, Eglon, and Morning Star.

Appropriation:

State Building Construction Account—State	\$75,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$75,000

NEW SECTION. Sec. 3334. FOR THE DEPARTMENT OF AGRICULTURE

2019-21 Grants to Improve Safety and Access at Fairs (92000004)

Reappropriation:

State Building Construction Account—State	\$190,000
Prior Biennia (Expenditures).....	\$1,810,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 3335. FOR THE DEPARTMENT OF AGRICULTURE

2021-23 WA State Fairs Health and Safety Grants (92000005)

Appropriation:

State Building Construction Account—State	\$8,005,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$8,005,000

PART 4

TRANSPORTATION

NEW SECTION. Sec. 4001. FOR THE WASHINGTON STATE PATROL

FTA Emergency Power Generator Replacement (30000171)

Appropriation:

State Building Construction Account—State	\$875,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$875,000

NEW SECTION. Sec. 4002. FOR THE WASHINGTON STATE PATROL

FTA Minor Works and Repairs (40000031)

Appropriation:

State Building Construction Account—State	\$225,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$1,250,000
TOTAL	\$1,475,000

NEW SECTION. Sec. 4003. FOR THE WASHINGTON STATE PATROL

FTA - Student Dormitory HVAC (40000034)

Appropriation:

State Building Construction Account—State	\$325,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$325,000

NEW SECTION. Sec. 4004. FOR THE DEPARTMENT OF TRANSPORTATION

2021-23 Aviation Revitalization Loans (40000002)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section must be deposited in the public use general aviation airport loan revolving account.

Appropriation:

Public Works Assistance Account—State	\$5,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

**PART 5
EDUCATION**

NEW SECTION. Sec. 5001. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2011-13 School Construction Assistance Program (30000071)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5003, chapter 48, Laws of 2011 1st sp. sess.

Reappropriation:

Common School Construction Account—State	\$66,000
Prior Biennia (Expenditures)	\$529,837,000
Future Biennia (Projected Costs)	\$0

TOTAL \$529,903,000

NEW SECTION. Sec. 5002. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2013-15 School Construction Assistance Program - Maintenance (30000145)

Reappropriation:

State Building Construction Account—State	\$1,529,000
Prior Biennia (Expenditures)	\$385,701,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$387,230,000

NEW SECTION. Sec. 5003. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2015-17 School Construction Assistance Program (30000169)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5013, chapter 3, Laws of 2015 3rd sp. sess.

Reappropriation:

Common School Construction Account—State	\$6,617,000
Prior Biennia (Expenditures)	\$639,008,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$645,625,000

NEW SECTION. Sec. 5004. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Emergency Repairs and Equal Access Grants for K-12 Public Schools (30000182)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 5001, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$184,000
Common School Construction Account—State	\$372,000
Subtotal Reappropriation	\$556,000
Prior Biennia (Expenditures)	\$5,444,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$6,000,000

NEW SECTION. Sec. 5005. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Skill Centers - Minor Works (30000187)

Reappropriation:

School Construction and Skill Centers Building Account—Bonds—State	\$521,000
Prior Biennia (Expenditures)	\$2,479,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 5006. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Tri-Tech Skill Center - Core Growth (30000197)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5004, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$415,000
Prior Biennia (Expenditures)	\$10,392,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,807,000

NEW SECTION. Sec. 5007. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

STEM Classrooms and Labs (30000203)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5005, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$961,000
Prior Biennia (Expenditures)	\$12,039,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$13,000,000

NEW SECTION. Sec. 5008. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2017-19 School Construction Assistance Program (40000003)

The appropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 5003, chapter 298, Laws of 2018.

Reappropriation:

Common School Construction Account—State	\$66,055,000
--	--------------

Appropriation:

State Building Construction Account—State	\$71,446,000
Prior Biennia (Expenditures)	\$811,249,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$948,750,000

NEW SECTION. Sec. 5009. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2019-21 School Construction Assistance Program - Maintenance Lvl (40000013)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to provisions of section 5002, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$612,878,000
---	---------------

Common School Construction Account—State	\$185,462,000
Subtotal Reappropriation	\$798,340,000
Prior Biennia (Expenditures).....	\$224,878,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,023,218,000

NEW SECTION. Sec. 5010. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

West Sound Technical Skills Center Modernization (40000015)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to provisions of section 5002, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$274,000
Prior Biennia (Expenditures).....	\$226,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 5011. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

School District Health and Safety 2019-21 (40000019)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 5016, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$842,000
Common School Construction Account—State	\$366,000
Subtotal Reappropriation	\$1,208,000
Prior Biennia (Expenditures).....	\$4,792,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$6,000,000

NEW SECTION. Sec. 5012. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Healthy Kids / Healthy Schools 2019-21 (40000021)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5017, chapter 413, Laws of 2019.

Reappropriation:

Common School Construction Account—State	\$1,120,000
Prior Biennia (Expenditures).....	\$2,130,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$3,250,000

NEW SECTION. Sec. 5013. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Skills Centers Minor Works (40000023)

Reappropriation:

State Building Construction Account—State	\$1,205,000
Prior Biennia (Expenditures)	\$1,795,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 5014. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2019-21 Career Preparation and Launch Equipment Grants (40000032)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5019, chapter 413, Laws of 2019.

Reappropriation:

Common School Construction Account—State	\$104,000
Prior Biennia (Expenditures)	\$896,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 5015. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2021-23 School Construction Assistance Program (40000034)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$727,780,000 of the appropriation in this section is provided solely for school construction assistance grants for qualifying public school construction projects.

(2) \$2,836,000 of the appropriation in this section is provided solely for study and survey grants and for completing inventory and building condition assessments for public school districts every six years.

Appropriation:

State Building Construction Account—State	\$702,657,000
Common School Construction Account—State	\$24,959,000
Common School Construction Account—Federal	\$3,000,000
Subtotal Appropriation	\$730,616,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$3,899,490,000
TOTAL	\$4,630,106,000

NEW SECTION. Sec. 5016. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2021-23 Healthy Kids-Healthy Schools: Physical Health & Nutrition (91000464)

The appropriation in this section is subject to the following conditions and limitations:

(1) The office of the superintendent of public instruction shall develop criteria for funding specific projects that are consistent with the healthiest next generation priorities. The criteria must include, but are not limited to, the following:

(a) Districts may apply for grants, but no single district may receive more than \$200,000 of the appropriation for grants awarded under this section;

(b) Any district receiving funding provided in this section must demonstrate a consistent commitment to addressing school facilities' needs; and

(c) Applicants with a high percentage of students who are eligible and enrolled in the free and reduced-price meals program may be prioritized.

(2) The appropriation in this section is provided solely for grants to school districts for the purchase of equipment or to make repairs to existing equipment that is related to improving:

(a) Children's physical health, and may include, but is not limited to, fitness playground equipment, covered play areas, and physical education equipment or related structures or renovation; and

(b) Children's nutrition, and may include, but is not limited to, garden related structures and greenhouses to provide students access to fresh produce, and kitchen equipment or upgrades.

Appropriation:

Common School Construction Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 5017. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

K-12 Capital Programs Administration (40000038)

Appropriation:

Common School Construction Account—State	\$4,282,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,282,000

NEW SECTION. Sec. 5018. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2021-23 Small District and Tribal Compact Schools Modernization (40000039)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,000,000 of the state building construction account—state appropriation in this section is provided solely for a modernization grant to the Mount Adams school district to complete the replacement of Harrah Elementary School.

(2)(a) \$21,795,000 of the state building construction account—state appropriation and \$12,000,000 of the coronavirus capital projects account—federal appropriation in this section are provided solely for modernization grants for small school districts with total enrollments of 1,000 students or less with significant building system deficiencies and limited financial capacity as approved by the superintendent of public instruction's small district modernization grant advisory committee.

(b) The superintendent of public instruction must submit a list of small school district modernization projects, as prioritized by the advisory committee, to the legislature by January 15, 2023. The list must include: (i) A description of the project; (ii) the proposed state funding level, not to exceed \$5,000,000; (iii) estimated total project costs; and (iv) local funding resources.

(3) \$1,100,000 of the state building construction account—state appropriation in this section is provided solely for planning grants for small school districts with enrollments of 1,000 students or less interested in seeking modernization grants. The superintendent of public instruction may prioritize planning grants for school districts with the most serious building deficiencies and the most limited financial capacity. Planning grants may not exceed \$50,000 per district. Planning grants may only be awarded to school districts with an estimated total project cost of \$5,000,000 or less.

(4)(a) \$4,218,000 of the state building construction account—state appropriation in this section is provided solely for planning grants and modernization grants to state tribal compact schools. The superintendent may prioritize planning grants for state tribal compact schools with the most serious building deficiencies and the most limited financial capacity.

(b) The superintendent of public instruction must submit a prioritized list of state-tribal compact school modernization projects to the legislature by January 15, 2023. The list must include: (i) A description of the project; (ii) the planning grant amount; and (iii) estimated total project costs.

(5) The appropriated funds in this section may be awarded only to projects approved by the legislature, as identified in LEAP capital document No. OSPI-1.1-CD-2021, developed April 15, 2021.

Appropriation:

State Building Construction Account—State	\$30,113,000
Coronavirus Capital Projects Account—Federal.	\$12,000,000
Subtotal Appropriation	\$42,113,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$290,592,000
TOTAL	\$332,705,000

NEW SECTION. Sec. 5019. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2021-23 Skills Centers Minor Works (40000040)

The appropriations in this section are subject to the following conditions and limitations: In addition to the conditions and limitations specified in section 7019 of this act, no skill center shall receive funding for more than two minor works projects within the 2021-2023 fiscal biennium.

Appropriation:

State Building Construction Account—State	\$1,556,000
Coronavirus Capital Projects Account—Federal.	\$1,832,000
Subtotal Appropriation	\$3,388,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,388,000

NEW SECTION. Sec. 5020. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Pierce County Skills Center - Evergreen Building Modernization (40000048)

Appropriation:

State Building Construction Account—State	\$9,830,000
---	-------------

Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$9,830,000

NEW SECTION. Sec. 5021. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Seattle Public Schools Skills Center - Rainier Beach High School (40000050)

Appropriation:

State Building Construction Account—State	\$300,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$300,000

NEW SECTION. Sec. 5022. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Puget Sound Skills Center Preservation (40000051)

Appropriation:

State Building Construction Account—State	\$1,024,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,024,000

NEW SECTION. Sec. 5023. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2021-23 School District Health and Safety (40000052)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$643,000 of the common school construction account—state appropriation and \$1,357,000 of the state building construction account—state appropriation in this section are provided solely for emergency repair grants to address unexpected and imminent health and safety hazards at K-12 public schools, including skill centers, that will impact the day-to-day operations of the school facility, and this is the maximum amount that may be spent for this purpose. For emergency repair grants only, an emergency declaration must be signed by the school district board of directors and submitted to the superintendent of public instruction for consideration. The emergency declaration must include a description of the imminent health and safety hazard, the possible cause, the proposed scope of emergency repair work and related cost estimate, and identification of local funding to be applied to the project. Grants of emergency repair moneys must be conditioned upon the written commitment and plan of the school district board of directors to repay the grant with any insurance payments or other judgments that may be awarded, if applicable.

(2) \$965,000 of the common school construction account—state appropriation, \$2,035,000 of the state building construction account—state appropriation, and \$1,193,000 of the coronavirus capital projects account—federal appropriation in this section are provided solely for urgent repair grants to address nonrecurring urgent small repair projects at K-12 public schools, excluding skill centers, that could impact the health and safety of students and staff if not completed, and this is the maximum amount that may be spent for this

purpose. The office of the superintendent of public instruction, after consulting with maintenance and operations administrators of school districts, shall develop criteria and assurances for providing funding for specific projects through a competitive grant program. The criteria and assurances must include, but are not limited to, the following: (a) Limiting school districts to one grant, not to exceed \$200,000, per three-year period; (b) prioritizing applications based on limited school district financial resources for the project; and (c) requiring any district receiving funding provided in this section to demonstrate a consistent commitment to addressing school facility needs. The grant applications must include a comprehensive description of the health and safety issues to be addressed, a detailed description of the remedy, including a detailed cost estimate of the repair or replacement work to be performed, and identification of local funding, if any, which will be applied to the project. Grants may be used for, but are not limited to: Repair or replacement of failing building systems, abatement of potentially hazardous materials, and safety-related structural improvements.

(3) \$322,000 of the common school construction account—state appropriation and \$678,000 of the state building construction account—state appropriation in this section are provided solely for equal access grants for facility repairs and alterations at K-12 public schools, including skills centers, to improve compliance with the Americans with disabilities act and individuals with disabilities education act, and this is the maximum amount that may be spent for this purpose. The office of the superintendent of public instruction shall develop criteria and assurances for providing funding for specific projects through a competitive grant program. The criteria and assurances must include, but are not limited to, the following: (a) Limiting districts to one grant, not to exceed \$100,000, per three-year period; (b) prioritizing applications based on limited school district financial resources for the project; and (c) requiring recipient districts to demonstrate a consistent commitment to addressing school facility needs. The grant applications must include a description of the Americans with disabilities act or individuals with disabilities education act compliance deficiency, a comprehensive description of the facility accessibility issues to be addressed, a detailed description of the remedy including a detailed cost estimate of the repair or replacement work to be performed, and identification of local funding, if any, which will be applied to the project. Priority for grant funding must be given to school districts that demonstrate a lack of capital resources to address the compliance deficiencies outlined in the grant application.

(4) The superintendent of public instruction must notify the office of financial management, the legislative evaluation and accountability program committee, the house capital budget committee, and the senate ways and means committee as projects described in subsection (1) of this section are approved for funding.

Appropriation:

Coronavirus Capital Projects Account—Federal.	\$1,193,000
Common School Construction Account—State	\$1,930,000
State Building Construction Account—State	\$4,070,000
Subtotal Appropriation	\$7,193,000
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs).....	\$52,000,000
TOTAL	\$59,193,000

NEW SECTION. Sec. 5024. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2021-23 School Seismic Safety Retrofit Program (40000054)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$2,000,000 of the appropriation in this section is provided solely for school seismic safety retrofit planning grants to school districts. The superintendent of public instruction shall prioritize planning grants for school districts with the most significant building deficiencies and the greatest seismic risks as determined by the most recent geological data and building engineering assessments, beginning with facilities classified as very high risk.

(2) \$38,000,000 of the appropriation in this section is provided solely for school seismic safety retrofit grants to school districts for seismic retrofits and seismic safety related improvements of school buildings used for the instruction of students in kindergarten through 12th grade. The superintendent of public instruction must prioritize school seismic safety retrofit grants for school districts with the most significant building deficiencies and the greatest seismic risks as determined by the school seismic safety retrofit planning grants established in subsection (1) of this section, beginning with facilities classified as very high risk.

(3) In the development of school seismic safety retrofit projects, the superintendent of public instruction shall consider the following: (a) Prioritizing student instructional spaces and facilities that improve communities' emergency response capacity, including school gymnasiums and school facilities that are capable of providing space for emergency shelter and response coordination; (b) the financial capacity of low property value school districts in the sizing of grant awards; (c) facilities' seismic needs in light of the useful life of the facilities; and (d) the extent to which the cost of the proposed seismic improvements are less than the estimated costs of facility replacement or new construction.

Appropriation:

State Building Construction Account—State	\$40,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$160,000,000
TOTAL	\$200,000,000

NEW SECTION. Sec. 5025. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2021-23 Career Preparation and Launch Grants (40000056)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for the superintendent of public instruction to provide competitive grants to school districts to purchase and install career and technical education equipment that expands career connected learning and work-integrated learning opportunities.

(2) The office of the superintendent of public instruction, after consulting with school districts and the workforce training and education coordinating board, shall develop criteria and assurances for providing funding and outcomes

for specific projects through a competitive grant program to stay within the appropriation level provided in this section consistent with the following priorities. The criteria must include, but are not limited to, the following:

- (a) Districts or schools must demonstrate that the request provides necessary equipment to deliver career and technical education; and
- (b) Applicants with a high percentage of students who are eligible and enrolled in the free and reduced-price meals program must be prioritized.
- (3) No single district may receive more than \$150,000 of the appropriation.

Appropriation:

Common School Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 5026. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Career and Technical Education Equipment Grants (91000408)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5005, chapter 298, Laws of 2018.

Reappropriation:

Common School Construction Account—State	\$29,000
Prior Biennia (Expenditures)	\$971,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 5027. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2021-23 Healthy Kids-Healthy Schools: Remediation of Lead (91000465)

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided for under subsection (2) of this section, the appropriations in this section are provided solely for grants to school districts, charter schools, and state-tribal education compact schools for the replacement of lead-contaminated pipes, drinking water fixtures, and the purchase of water filters, including the labor costs of remediation design, installation, and construction. The amount provided to charter schools and state-tribal education compact schools for lead remediation costs in this section may not exceed \$100,000 and must be provided from the state building construction account—state appropriation in this section.

(2) \$128,000 of the state building construction account—state appropriation in this section is provided solely for the office of the superintendent of public instruction to enter into a contract, and for the administrative costs of that contract, for the following purposes: To study, estimate, and provide future common and charter school lead-contaminated drinking water remediation and mitigation costs associated with complying with codified lead remediation standards for these schools. The remediation cost estimates developed through this study must rely on a representative sample of schools from the most recent three-year period that have been tested for lead contamination using independent

testing and department of health testing. The remediation costs considered in this study and the representative sample may include: (a) Technical assistance; (b) design; (c) parts and hardware; (d) labor; (e) contract administration for the predesign, design, and remediation phases; and (f) project management. Mitigation actions, treatments, and costs may also be considered in the study, along with other cost categories, as deemed relevant by the office of the superintendent of public instruction. The data collected and studied under this section should be representative of large, medium, and small school districts, as categorized by the Washington State School Directors' Association. Costs must be reported separately in appropriate categories to facilitate understanding of the data collected and studied.

(3) The office of the superintendent of public instruction shall consult with stakeholders and legislative fiscal staff regarding the development of the study and the development of a request for proposal under this section. The results of this study, including cost estimates, must be provided to the governor and the appropriate fiscal committees of the legislature by November 1, 2021.

Appropriation:

Common School Construction Account—State	\$270,000
State Building Construction Account—State	\$3,328,000
Subtotal Appropriation	\$3,598,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,598,000

NEW SECTION. Sec. 5028. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Green Schools: Stormwater Infrastructure Projects (91000466)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for a contract with a statewide community-based organization with experience planning and developing green stormwater infrastructure and related educational programs on public school properties. The organization awarded funding under this section must use this funding solely for green stormwater infrastructure projects on public school properties.

(2) The organization selected under subsection (1) of this section must use geographic analysis to identify green stormwater infrastructure project locations based on the opportunity to reduce stormwater runoff.

(3) To qualify for a project under this section, schools must be eligible for financial assistance under Title I of the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act. The organization selected under subsection (1) of this section must prioritize schools with high percentages of students eligible for the free and reduced-price meals program that also serve diverse student populations.

(4) Stormwater infrastructure projects under this section should aim to: (a) Provide equity of opportunity in high-need communities; and (b) engage students in conjunction with K-12 STEM education programs aligned with the Washington state science and learning standards.

Appropriation:

Common School Construction Account—State	\$300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$300,000

NEW SECTION. Sec. 5029. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Puget Sound Skills Center (92000007)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5021, chapter 3, Laws of 2015 3rd sp. sess.

Reappropriation:

State Building Construction Account—State	\$3,000
Prior Biennia (Expenditures)	\$20,930,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$20,933,000

NEW SECTION. Sec. 5030. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

K-3 Class-size Reduction Grants (92000039)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5023, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$19,654,000
Prior Biennia (Expenditures)	\$214,846,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$234,500,000

NEW SECTION. Sec. 5031. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Small Rural District Modernization Grants (92000040)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5008, chapter 298, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$1,867,000
Prior Biennia (Expenditures)	\$39,133,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$41,000,000

NEW SECTION. Sec. 5032. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Distressed Schools (92000041)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5004, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$28,861,000
Prior Biennia (Expenditures)	\$16,625,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$45,486,000

NEW SECTION. Sec. 5033. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

Everett Pathways to Medical Education (92000123)

Reappropriation:

State Building Construction Account—State	\$513,000
Prior Biennia (Expenditures)	\$1,487,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 5034. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2019-21 Small District Modernization Grants (92000139)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5003, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$6,190,000
Prior Biennia (Expenditures)	\$17,193,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$23,383,000

NEW SECTION. Sec. 5035. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2019-21 STEM Grants (92000140)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5029, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State	\$6,660,000
Prior Biennia (Expenditures)	\$1,040,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$7,700,000

NEW SECTION. Sec. 5036. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2019-21 Distressed Schools (92000142)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5005, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$23,356,000
Prior Biennia (Expenditures)	\$2,581,000

Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$25,937,000

NEW SECTION. Sec. 5037. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2021-23 Agricultural Science in Schools Grant to FFA Foundation (92000916)

Appropriation:

Common School Construction Account—State	\$2,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$2,000,000

NEW SECTION. Sec. 5038. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2021-23 Distressed Schools (92000917)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$7,000,000 of the appropriation in this section is provided solely for a 12-classroom addition at Green Lake Elementary School in Seattle public schools.

(2) \$940,000 of the appropriation in this section is provided solely for the Healthy Schools pilot to reduce exposure to air pollution and improve air quality in schools.

(3) \$772,000 of the appropriation in this section is provided solely for a school-based health center at Spanaway Middle School.

Appropriation:

State Building Construction Account—State	\$8,712,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$8,712,000

NEW SECTION. Sec. 5039. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

2019-21 School Seismic Safety Retrofit Program (92000148)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5006, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$13,190,000
Prior Biennia (Expenditures).....	\$50,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$13,240,000

NEW SECTION. Sec. 5040. FOR THE UNIVERSITY OF WASHINGTON

UW Tacoma (20102002)

The appropriations in this section are subject to the following conditions and limitations: The appropriation is subject to the provisions of section 5036, chapter 413, Laws of 2019.

Reappropriation:

University of Washington Building Account—State \$700,000

Appropriation:

State Building Construction Account—State \$36,000,000

Prior Biennia (Expenditures) \$3,800,000

Future Biennia (Projected Costs) \$0

TOTAL \$40,500,000

NEW SECTION. Sec. 5041. FOR THE UNIVERSITY OF WASHINGTON

UW Bothell (30000378)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5037, chapter 413, Laws of 2019.

Reappropriation:

State Building Construction Account—State \$70,000,000

Prior Biennia (Expenditures) \$9,438,000

Future Biennia (Projected Costs) \$0

TOTAL \$79,438,000

NEW SECTION. Sec. 5042. FOR THE UNIVERSITY OF WASHINGTON

Health Sciences Education - T-Wing Renovation/Addition (30000486)

Reappropriation:

State Building Construction Account—State \$24,000,000

University of Washington Building Account—State \$2,000,000

Subtotal Reappropriation \$26,000,000

Prior Biennia (Expenditures) \$44,623,000

Future Biennia (Projected Costs) \$0

TOTAL \$70,623,000

NEW SECTION. Sec. 5043. FOR THE UNIVERSITY OF WASHINGTON

College of Engineering Interdisciplinary/Education Research Ctr (30000492)

Reappropriation:

University of Washington Building Account—State \$3,000,000

Appropriation:

State Building Construction Account—State \$45,400,000

Prior Biennia (Expenditures) \$1,600,000

Future Biennia (Projected Costs) \$0

TOTAL \$50,000,000

NEW SECTION. Sec. 5044. FOR THE UNIVERSITY OF WASHINGTON

UW Major Infrastructure (30000808)

Reappropriation:

University of Washington Building Account—State \$7,000,000

Appropriation:

University of Washington Building Account—State \$8,000,000

Prior Biennia (Expenditures) \$25,500,000

Future Biennia (Projected Costs)	\$34,300,000
TOTAL	\$74,800,000

NEW SECTION. Sec. 5045. FOR THE UNIVERSITY OF WASHINGTON

2019-21 Minor Works - Preservation (40000004)

Reappropriation:

University of Washington Building Account—State	\$8,200,000
Prior Biennia (Expenditures)	\$35,266,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$43,466,000

NEW SECTION. Sec. 5046. FOR THE UNIVERSITY OF WASHINGTON

Behavioral Health Teaching Facility (40000038)

The appropriations in this section are subject to the following conditions and limitations: The appropriations are subject to the provisions of section 6042 of this act.

Reappropriation:

State Building Construction Account—State	\$6,000,000
---	-------------

Appropriation:

State Building Construction Account—State	\$200,750,000
Prior Biennia (Expenditures)	\$27,250,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$234,000,000

NEW SECTION. Sec. 5047. FOR THE UNIVERSITY OF WASHINGTON

Magnuson Health Sciences Phase II - Renovation/Replacement (40000049)

Reappropriation:

State Building Construction Account—State	\$1,000,000
---	-------------

Appropriation:

State Building Construction Account—State	\$5,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$58,000,000
TOTAL	\$64,000,000

NEW SECTION. Sec. 5048. FOR THE UNIVERSITY OF WASHINGTON

UW Seattle - Asset Preservation (Minor Works) 21-23 (40000050)

Appropriation:

UW Building Account—State	\$35,685,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$97,533,000
TOTAL	\$133,218,000

NEW SECTION. Sec. 5049. FOR THE UNIVERSITY OF WASHINGTON

UW Bothell - Asset Preservation (Minor Works) 2021-23 (40000070)

Appropriation:

UW Building Account—State	\$3,638,000
-------------------------------------	-------------

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$20,200,000
TOTAL	\$23,838,000

NEW SECTION. Sec. 5050. FOR THE UNIVERSITY OF WASHINGTON

UW Tacoma - Asset Preservation (Minor Works) 2021-23 (40000072)

Appropriation:

UW Building Account—State	\$2,677,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$14,861,000
TOTAL	\$17,538,000

NEW SECTION. Sec. 5051. FOR THE UNIVERSITY OF WASHINGTON

Ctr for Advanced Materials and Clean Energy Research Test Beds (91000016)

Reappropriation:

State Building Construction Account—State	\$15,000,000
Prior Biennia (Expenditures)	\$13,988,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$28,988,000

NEW SECTION. Sec. 5052. FOR THE UNIVERSITY OF WASHINGTON

Preventive Facility Maintenance and Building System Repairs (91000019)

Appropriation:

UW Building Account—State	\$25,825,000
Prior Biennia (Expenditures)	\$25,825,000
Future Biennia (Projected Costs)	\$103,300,000
TOTAL	\$154,950,000

NEW SECTION. Sec. 5053. FOR THE UNIVERSITY OF WASHINGTON

Power Plant (91000026)

Appropriation:

University of Washington Building Account—State	\$10,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,000,000

NEW SECTION. Sec. 5054. FOR THE UNIVERSITY OF WASHINGTON

UW Tacoma Campus Soil Remediation (92000002)

Reappropriation:

Model Toxics Control Capital Account—State	\$600,000
--	-----------

Appropriation:

Model Toxics Control Capital Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$7,658,000
Future Biennia (Projected Costs)	\$8,000,000
TOTAL	\$18,258,000

NEW SECTION. Sec. 5055. FOR THE UNIVERSITY OF WASHINGTON

University of Washington Medical Center Northwest Campus Behavioral Health Renovation (91000027)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the renovation of existing geriatric psychiatric beds within the Northwest Campus of the University of Washington Medical Center, including predesign, design costs, enabling projects, and early work packages. The renovation design must include fourteen adult psychiatric beds.

Appropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$13,000,000
TOTAL	\$15,000,000

NEW SECTION. Sec. 5056. FOR WASHINGTON STATE UNIVERSITY

WSU Vancouver - Life Sciences Building (30000840)

Reappropriation:

State Building Construction Account—State	\$1,100,000
---	-------------

Appropriation:

State Building Construction Account—State	\$52,600,000
Prior Biennia (Expenditures)	\$3,400,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$57,100,000

NEW SECTION. Sec. 5057. FOR WASHINGTON STATE UNIVERSITY

WSU Tri-Cities - Academic Building (30001190)

Reappropriation:

State Building Construction Account—State	\$750,000
Prior Biennia (Expenditures)	\$29,650,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$30,400,000

NEW SECTION. Sec. 5058. FOR WASHINGTON STATE UNIVERSITY

Global Animal Health Building (30001322)

Reappropriation:

State Building Construction Account—State	\$2,500,000
Prior Biennia (Expenditures)	\$56,900,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$59,400,000

NEW SECTION. Sec. 5059. FOR WASHINGTON STATE UNIVERSITY

Washington State University Pullman - STEM Teaching Labs (30001326)

Appropriation:

State Building Construction Account—State	\$2,500,000
Prior Biennia (Expenditures)	\$1,000,000

Future Biennia (Projected Costs).....	\$7,400,000
TOTAL	\$10,900,000

NEW SECTION. Sec. 5060. FOR WASHINGTON STATE UNIVERSITY

Everett Real Estate Acquisition (40000006)

Reappropriation:

Washington State University Building Account—	
State	\$10,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$10,000,000

NEW SECTION. Sec. 5061. FOR WASHINGTON STATE UNIVERSITY

Minor Capital Preservation (MCR): 2019-21 (40000011)

Reappropriation:

Washington State University Building Account—	
State	\$1,000,000
Prior Biennia (Expenditures).....	\$20,400,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$21,400,000

NEW SECTION. Sec. 5062. FOR WASHINGTON STATE UNIVERSITY

Spokane-Biomedical and Health Sc Building Ph II (40000012)

Appropriation:

State Building Construction Account—State	\$15,000,000
Prior Biennia (Expenditures).....	\$500,000
Future Biennia (Projected Costs).....	\$75,000,000
TOTAL	\$90,500,000

NEW SECTION. Sec. 5063. FOR WASHINGTON STATE UNIVERSITY

Minor Capital Preservation (MCR): 2021-23 (40000145)

Appropriation:

Washington State University Building Account—	
State	\$27,793,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$142,500,000
TOTAL	\$170,293,000

NEW SECTION. Sec. 5064. FOR WASHINGTON STATE UNIVERSITY

Minor Capital Program (MCI & Omnibus Equip): 2021-23 (40000212)

Appropriation:

Washington State University Building Account—	
State	\$6,400,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$40,000,000
TOTAL	\$46,400,000

NEW SECTION. Sec. 5065. FOR WASHINGTON STATE UNIVERSITY

Johnson Hall Replacement (40000271)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section may only be used for project expenses directly related to the demolition of Johnson Hall and site preparation work necessary to prepare for a new plant biosciences building for which design and construction funding is provided by the United States department of agriculture.

Appropriation:

State Building Construction Account—State	\$8,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,000,000

NEW SECTION. Sec. 5066. FOR WASHINGTON STATE UNIVERSITY

Campus Fire Protection and Domestic Water Reservoir (40000272)

Appropriation:

State Building Construction Account—State	\$8,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,000,000

NEW SECTION. Sec. 5067. FOR WASHINGTON STATE UNIVERSITY

Clark Hall Research Lab Renovation (40000274)

Appropriation:

Washington State University Building Account—	
State	\$4,900,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,900,000

NEW SECTION. Sec. 5068. FOR WASHINGTON STATE UNIVERSITY

Pullman Sciences Building (40000284)

Appropriation:

State Building Construction Account—State	\$500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$53,000,000
TOTAL	\$53,500,000

NEW SECTION. Sec. 5069. FOR WASHINGTON STATE UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (91000037)

Appropriation:

Washington State University Building Account—	
State	\$10,115,000
Prior Biennia (Expenditures)	\$10,115,000
Future Biennia (Projected Costs)	\$40,460,000

TOTAL \$60,690,000

NEW SECTION. Sec. 5070. FOR EASTERN WASHINGTON UNIVERSITY

Interdisciplinary Science Center (30000001)

Reappropriation:

State Building Construction Account—State \$3,000,000
Prior Biennia (Expenditures) \$69,200,000
Future Biennia (Projected Costs) \$0
TOTAL \$72,200,000

NEW SECTION. Sec. 5071. FOR EASTERN WASHINGTON UNIVERSITY

Science Renovation (30000507)

Reappropriation:

State Building Construction Account—State \$6,000,000

Appropriation:

State Building Construction Account—State \$45,000,000
Prior Biennia (Expenditures) \$2,287,000
Future Biennia (Projected Costs) \$45,500,000
TOTAL \$98,787,000

NEW SECTION. Sec. 5072. FOR EASTERN WASHINGTON UNIVERSITY

Minor Works: Preservation 2019-21 (40000011)

Reappropriation:

Eastern Washington University Capital Projects
Account—State \$3,866,000
Prior Biennia (Expenditures) \$2,634,000
Future Biennia (Projected Costs) \$26,000,000
TOTAL \$32,500,000

NEW SECTION. Sec. 5073. FOR EASTERN WASHINGTON UNIVERSITY

Minor Works: Program 2019-21 (40000015)

Reappropriation:

Eastern Washington University Capital Projects
Account—State \$161,000
Prior Biennia (Expenditures) \$2,339,000
Future Biennia (Projected Costs) \$10,000,000
TOTAL \$12,500,000

NEW SECTION. Sec. 5074. FOR EASTERN WASHINGTON UNIVERSITY

Infrastructure Renewal II (40000016)

Reappropriation:

State Building Construction Account—State \$11,000,000
Prior Biennia (Expenditures) \$4,000,000
Future Biennia (Projected Costs) \$0
TOTAL \$15,000,000

NEW SECTION. Sec. 5075. FOR EASTERN WASHINGTON UNIVERSITY

Albers Court Improvements (40000036)

Reappropriation:

State Building Construction Account—State	\$4,000,000
Prior Biennia (Expenditures)	\$953,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,953,000

NEW SECTION. Sec. 5076. FOR EASTERN WASHINGTON UNIVERSITY

Infrastructure Renewal III (40000070)

Appropriation:

State Building Construction Account—State	\$10,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$25,518,000
TOTAL	\$35,518,000

NEW SECTION. Sec. 5077. FOR EASTERN WASHINGTON UNIVERSITY

Lucy Covington Center (40000071)

Appropriation:

Eastern Washington University Capital Projects	
Account—State	\$300,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$18,500,000
TOTAL	\$18,800,000

NEW SECTION. Sec. 5078. FOR EASTERN WASHINGTON UNIVERSITY

Minor Works: Preservation 2021-23 (40000107)

Appropriation:

Eastern Washington University Capital Projects	
Account—State	\$3,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 5079. FOR EASTERN WASHINGTON UNIVERSITY

Preventative Maintenance/Backlog Reduction 2021-23 (40000108)

Appropriation:

Eastern Washington University Capital Projects	
Account—State	\$2,217,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,217,000

NEW SECTION. Sec. 5080. FOR EASTERN WASHINGTON UNIVERSITY

Minor Works: Program 2021-23 (40000110)

Appropriation:

Eastern Washington University Capital Projects	
Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0

Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 5081. FOR CENTRAL WASHINGTON

UNIVERSITY

Nutrition Science (30000456)

Reappropriation:

State Building Construction Account—State	\$17,500,000
Prior Biennia (Expenditures).....	\$42,080,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$59,580,000

NEW SECTION. Sec. 5082. FOR CENTRAL WASHINGTON

UNIVERSITY

Minor Works Program: 2019-21 (40000007)

Reappropriation:

Central Washington University Capital Projects Account—State	\$80,000
Prior Biennia (Expenditures).....	\$920,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$1,000,000

NEW SECTION. Sec. 5083. FOR CENTRAL WASHINGTON

UNIVERSITY

Health Education (40000009)

Reappropriation:

State Building Construction Account—State	\$1,800,000
---	-------------

Appropriation:

State Building Construction Account—State	\$55,505,000
Prior Biennia (Expenditures).....	\$3,200,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$60,505,000

NEW SECTION. Sec. 5084. FOR CENTRAL WASHINGTON

UNIVERSITY

Minor Works Preservation: 2019-21 (40000041)

Reappropriation:

Central Washington University Capital Projects Account—State	\$790,000
State Building Construction Account—State	\$210,000
Subtotal Reappropriation	\$1,000,000
Prior Biennia (Expenditures).....	\$6,000,000
Future Biennia (Projected Costs).....	\$28,000,000
TOTAL	\$35,000,000

NEW SECTION. Sec. 5085. FOR CENTRAL WASHINGTON

UNIVERSITY

Campus Security Enhancements (40000074)

Reappropriation:

Central Washington University Capital Projects Account—State	\$250,000
Prior Biennia (Expenditures).....	\$2,213,000
Future Biennia (Projected Costs).....	\$0

TOTAL \$2,463,000

NEW SECTION. Sec. 5086. FOR CENTRAL WASHINGTON

UNIVERSITY

Chiller Addition (40000075)

Appropriation:

State Building Construction Account—State	\$3,189,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,189,000

NEW SECTION. Sec. 5087. FOR CENTRAL WASHINGTON

UNIVERSITY

Humanities & Social Science Complex (40000081)

Appropriation:

State Building Construction Account—State	\$5,205,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$63,846,000
TOTAL	\$69,051,000

NEW SECTION. Sec. 5088. FOR CENTRAL WASHINGTON

UNIVERSITY

Minor Works Preservation 2021 - 2023 (40000083)

Appropriation:

Central Washington University Capital Projects	
Account—State	\$6,499,000
State Building Construction Account—State	\$962,000
Subtotal Appropriation	\$7,461,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$25,995,000
TOTAL	\$33,456,000

NEW SECTION. Sec. 5089. FOR CENTRAL WASHINGTON

UNIVERSITY

Minor Works Program 2021 - 2023 (40000084)

Appropriation:

Central Washington University Capital Projects	
Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
TOTAL	\$17,000,000

NEW SECTION. Sec. 5090. FOR CENTRAL WASHINGTON

UNIVERSITY

Preventative Facility Maintenance/Backlog Reduction 2021-23 (40000115)

Appropriation:

Central Washington University Capital Projects	
Account—State	\$2,422,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$9,688,000
TOTAL	\$12,110,000

NEW SECTION. Sec. 5091. FOR THE EVERGREEN STATE COLLEGE

Seminar I Renovation (30000125)

Appropriation:

State Building Construction Account—State	\$3,000,000
Prior Biennia (Expenditures).....	\$212,000
Future Biennia (Projected Costs).....	\$24,300,000
TOTAL	\$27,512,000

NEW SECTION. Sec. 5092. FOR THE EVERGREEN STATE COLLEGE

Preventative Facility Maintenance and Building System Repairs (30000612)

Appropriation:

The Evergreen State College Capital Projects Account—State	\$880,000
Prior Biennia (Expenditures).....	\$1,613,000
Future Biennia (Projected Costs).....	\$7,900,000
TOTAL	\$10,393,000

NEW SECTION. Sec. 5093. FOR THE EVERGREEN STATE COLLEGE

Minor Works Preservation (40000034)

Appropriation:

The Evergreen State College Capital Projects Account—State	\$3,580,000
State Building Construction Account—State	\$1,945,000
Subtotal Appropriation.....	\$5,525,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$77,500,000
TOTAL	\$83,025,000

NEW SECTION. Sec. 5094. FOR THE EVERGREEN STATE COLLEGE

Lab II HVAC Upgrades (40000047)

Appropriation:

Coronavirus Capital Projects Account—Federal.....	\$4,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$4,000,000

NEW SECTION. Sec. 5095. FOR THE EVERGREEN STATE COLLEGE

Minor Works: Program 2021-23 (40000077)

Appropriation:

The Evergreen State College Capital Projects Account—State	\$500,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$500,000

NEW SECTION. Sec. 5096. FOR THE EVERGREEN STATE COLLEGE

Minor Works - Preservation: 2019-21 (91000031)

Reappropriation:

The Evergreen State College Capital Projects	
Account—State	\$900,000
Prior Biennia (Expenditures)	\$4,966,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,866,000

NEW SECTION. Sec. 5097. FOR THE EVERGREEN STATE COLLEGE

Minor Works Program: 2019-21 (91000033)

Reappropriation:

The Evergreen State College Capital Projects	
Account—State	\$900,000
Prior Biennia (Expenditures)	\$600,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,500,000

NEW SECTION. Sec. 5098. FOR WESTERN WASHINGTON UNIVERSITY

Access Control Security Upgrades (30000604)

Appropriation:

State Building Construction Account—State	\$1,500,000
Western Washington University Capital Projects	
Account—State	\$515,000
Subtotal Appropriation	\$2,015,000
Prior Biennia (Expenditures)	\$1,500,000
Future Biennia (Projected Costs)	\$9,185,000
TOTAL	\$12,700,000

NEW SECTION. Sec. 5099. FOR WESTERN WASHINGTON UNIVERSITY

Sciences Building Addition & Renovation (30000768)

Reappropriation:

State Building Construction Account—State	\$30,987,000
Prior Biennia (Expenditures)	\$35,013,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$66,000,000

NEW SECTION. Sec. 5100. FOR WESTERN WASHINGTON UNIVERSITY

2019-21 Classroom & Lab Upgrades (30000869)

Reappropriation:

State Building Construction Account—State	\$400,000
Western Washington University Capital Projects	
Account—State	\$42,000
Subtotal Reappropriation	\$442,000
Prior Biennia (Expenditures)	\$2,558,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,000,000

NEW SECTION. Sec. 5101. FOR WESTERN WASHINGTON UNIVERSITY

Electrical Engineering/Computer Science Building (30000872)

The appropriations in this section are subject to the following conditions and limitations:

(1) The reappropriation is subject to the provisions of section 5089, chapter 413, Laws of 2019.

(2) The University may pursue the living building challenge petal certification for this project instead of the LEED silver certification required by RCW 39.35D.030.

Reappropriation:

State Building Construction Account—State \$500,000

Appropriation:

State Building Construction Account—State \$51,000,000

Prior Biennia (Expenditures) \$1,500,000

Future Biennia (Projected Costs) \$0

TOTAL \$53,000,000

NEW SECTION. Sec. 5102. FOR WESTERN WASHINGTON

UNIVERSITY

Minor Works - Preservation: 2019-21 (30000873)

Reappropriation:

Western Washington University Capital Projects

Account—State \$3,500,000

Prior Biennia (Expenditures) \$3,346,000

Future Biennia (Projected Costs) \$0

TOTAL \$6,846,000

NEW SECTION. Sec. 5103. FOR WESTERN WASHINGTON

UNIVERSITY

Minor Works - Program: 2019-21 (30000885)

Reappropriation:

Western Washington University Capital Projects

Account—State \$700,000

Prior Biennia (Expenditures) \$300,000

Future Biennia (Projected Costs) \$0

TOTAL \$1,000,000

NEW SECTION. Sec. 5104. FOR WESTERN WASHINGTON

UNIVERSITY

2021-23 Classroom & Lab Upgrades (30000911)

Appropriation:

State Building Construction Account—State \$2,500,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$10,500,000

TOTAL \$13,000,000

NEW SECTION. Sec. 5105. FOR WESTERN WASHINGTON

UNIVERSITY

Coast Salish Longhouse (30000912)

The appropriation in this section is subject to the following conditions and limitations: Any amount of the total project costs in excess of \$4,500,000 must be paid for from private funds.

Appropriation:

State Building Construction Account—State	\$3,000,000
Western Washington University Capital Projects Account—State	\$1,500,000
Subtotal Appropriation	\$4,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$4,500,000

NEW SECTION. Sec. 5106. FOR WESTERN WASHINGTON

UNIVERSITY

Minor Works - Preservation 2021-23 (30000915)

Appropriation:

Western Washington University Capital Projects Account—State	\$4,800,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$69,710,000
TOTAL	\$74,510,000

NEW SECTION. Sec. 5107. FOR WESTERN WASHINGTON

UNIVERSITY

Minor Works - Program 2021-2023 (30000918)

Appropriation:

Western Washington University Capital Projects Account—State	\$1,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$7,000,000
TOTAL	\$8,000,000

NEW SECTION. Sec. 5108. FOR WESTERN WASHINGTON

UNIVERSITY

Student Development and Success Center (30000919)

Appropriation:

Western Washington University Capital Projects Account—State	\$225,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$30,200,000
TOTAL	\$30,425,000

NEW SECTION. Sec. 5109. FOR WESTERN WASHINGTON

UNIVERSITY

Preventive Facility Maintenance and Building System Repairs (91000010)

Appropriation:

Western Washington University Capital Projects Account—State	\$3,614,000
Prior Biennia (Expenditures)	\$3,614,000
Future Biennia (Projected Costs)	\$14,456,000
TOTAL	\$21,684,000

NEW SECTION. Sec. 5110. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Minor Works - Preservation (30000288)

Reappropriation:

State Building Construction Account—State	\$150,000
Prior Biennia (Expenditures)	\$3,350,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,500,000

NEW SECTION. Sec. 5111. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Heritage Capital Grants Projects (30000297)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5054, chapter 2, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$1,800,000
Prior Biennia (Expenditures)	\$7,186,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,986,000

NEW SECTION. Sec. 5112. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Heritage Capital Grant Projects: 2019-21 (40000014)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5020, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$4,400,000
Prior Biennia (Expenditures)	\$4,777,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$9,177,000

NEW SECTION. Sec. 5113. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Minor Works - Preservation: 2019-21 (40000086)

Reappropriation:

State Building Construction Account—State	\$700,000
Prior Biennia (Expenditures)	\$1,908,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,608,000

NEW SECTION. Sec. 5114. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Heritage Capital Grant Projects 2021-2023 (40000099)

Appropriation:

State Building Construction Account—State	\$8,816,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,816,000

NEW SECTION. Sec. 5115. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Preservation - Minor Works 2021-23 (40000136)

Appropriation:

State Building Construction Account—State	\$2,500,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$8,298,000
TOTAL	\$10,798,000

NEW SECTION. Sec. 5116. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Great Hall Core Exhibit Renewal (40000145)

Appropriation:

State Building Construction Account—State	\$1,326,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$3,564,000
TOTAL	\$4,890,000

NEW SECTION. Sec. 5117. FOR THE WASHINGTON STATE HISTORICAL SOCIETY

Black History Commemoration (91000008)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5022, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$75,000
Prior Biennia (Expenditures)	\$25,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$100,000

NEW SECTION. Sec. 5118. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

Campbell and Carriage House Repairs and Restoration (40000017)

Reappropriation:

State Building Construction Account—State	\$618,000
---	-----------

Appropriation:

State Building Construction Account—State	\$956,000
Prior Biennia (Expenditures)	\$382,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,956,000

NEW SECTION. Sec. 5119. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

Minor Works - Preservation: 2019-21 (40000026)

Reappropriation:

State Building Construction Account—State	\$692,000
Prior Biennia (Expenditures)	\$867,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$1,559,000

NEW SECTION. Sec. 5120. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

Minor Works: Preservation 2021-23 (40000041)

Appropriation:

State Building Construction Account—State	\$778,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$778,000

NEW SECTION. Sec. 5121. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

Minor Works: Program 2021-23 (40000048)

Appropriation:

State Building Construction Account—State	\$75,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$75,000

NEW SECTION. Sec. 5122. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Olympic College: College Instruction Center (30000122)

Reappropriation:

State Building Construction Account—State	\$63,000
Prior Biennia (Expenditures)	\$50,077,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$50,140,000

NEW SECTION. Sec. 5123. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Grays Harbor College: Student Services and Instructional Building (30000127)

Reappropriation:

State Building Construction Account—State	\$2,201,000
---	-------------

Appropriation:

State Building Construction Account—State	\$44,026,000
Prior Biennia (Expenditures)	\$1,950,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$48,177,000

NEW SECTION. Sec. 5124. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

North Seattle Community College: Technology Building Renewal (30000129)

The reappropriation in this section is subject to the following conditions and limitations: All remaining work on this project must be completed by June 30, 2023.

Reappropriation:

State Building Construction Account—State	\$93,000
Prior Biennia (Expenditures)	\$25,326,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$25,419,000

NEW SECTION. Sec. 5125. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Clark College: North County Satellite (30000135)

Reappropriation:

State Building Construction Account—State	\$5,287,000
---	-------------

Appropriation:

State Building Construction Account—State	\$53,230,000
Prior Biennia (Expenditures)	\$401,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$58,918,000

NEW SECTION. Sec. 5126. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Everett Community College: Learning Resource Center (30000136)

Reappropriation:

State Building Construction Account—State	\$1,283,000
---	-------------

Appropriation:

State Building Construction Account—State	\$48,084,000
Prior Biennia (Expenditures)	\$2,732,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$52,099,000

NEW SECTION. Sec. 5127. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Edmonds Community College: Science, Engineering, Technology Bldg (30000137)

Reappropriation:

State Building Construction Account—State	\$124,000
Prior Biennia (Expenditures)	\$46,953,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$47,077,000

NEW SECTION. Sec. 5128. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Whatcom Community College: Learning Commons (30000138)

Reappropriation:

State Building Construction Account—State	\$5,790,000
Prior Biennia (Expenditures)	\$30,984,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$36,774,000

NEW SECTION. Sec. 5129. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Big Bend: Professional-Technical Education Center (30000981)

Reappropriation:

State Building Construction Account—State	\$48,000
Prior Biennia (Expenditures)	\$37,338,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$37,386,000

NEW SECTION. Sec. 5130. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Spokane: Main Building South Wing Renovation (30000982)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5025, chapter 298, Laws of 2018.

Reappropriation:

State Building Construction Account—State	\$657,000
Prior Biennia (Expenditures)	\$27,849,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$28,506,000

NEW SECTION. Sec. 5131. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Highline: Health and Life Sciences (30000983)

Reappropriation:

State Building Construction Account—State	\$845,000
Prior Biennia (Expenditures)	\$26,308,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$27,153,000

NEW SECTION. Sec. 5132. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Wenatchee Valley: Wells Hall Replacement (30000985)

Reappropriation:

State Building Construction Account—State	\$12,327,000
Prior Biennia (Expenditures)	\$20,044,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$32,371,000

NEW SECTION. Sec. 5133. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Olympic: Shop Building Renovation (30000986)

Reappropriation:

State Building Construction Account—State	\$8,421,000
Prior Biennia (Expenditures)	\$184,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,605,000

NEW SECTION. Sec. 5134. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce Fort Steilacoom: Cascade Building Renovation - Phase 3 (30000987)

Reappropriation:

State Building Construction Account—State	\$31,138,000
Prior Biennia (Expenditures)	\$3,962,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$35,100,000

NEW SECTION. Sec. 5135. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

South Seattle: Automotive Technology Renovation and Expansion (30000988)

Reappropriation:

State Building Construction Account—State	\$13,043,000
Prior Biennia (Expenditures)	\$12,834,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$25,877,000

NEW SECTION. Sec. 5136. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bates: Medical Mile Health Science Center (30000989)

Reappropriation:

State Building Construction Account—State	\$19,702,000
Prior Biennia (Expenditures)	\$24,364,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$44,066,000

NEW SECTION. Sec. 5137. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Shoreline: Allied Health, Science & Manufacturing Replacement (30000990)

Reappropriation:

State Building Construction Account—State	\$106,000
---	-----------

Appropriation:

State Building Construction Account—State	\$43,848,000
Prior Biennia (Expenditures)	\$3,486,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$47,440,000

NEW SECTION. Sec. 5138. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

North Seattle Library Building Renovation (30001451)

Reappropriation:

State Building Construction Account—State	\$759,000
---	-----------

Appropriation:

State Building Construction Account—State	\$30,519,000
Prior Biennia (Expenditures)	\$2,689,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$33,967,000

NEW SECTION. Sec. 5139. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Walla Walla Science and Technology Building Replacement (30001452)

Reappropriation:

State Building Construction Account—State	\$343,000
---	-----------

Appropriation:

State Building Construction Account—State	\$9,483,000
Prior Biennia (Expenditures)	\$813,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$10,639,000

NEW SECTION. Sec. 5140. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Spokane Falls: Fine and Applied Arts Replacement (30001458)

The appropriations in this section are subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5027, chapter 356, Laws of 2020.

Reappropriation:

State Building Construction Account—State	\$19,354,000
---	--------------

Appropriation:

State Building Construction Account—State	\$19,342,000
Prior Biennia (Expenditures)	\$3,473,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$42,169,000

NEW SECTION. Sec. 5141. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lake Washington: Center for Design (40000102)

Reappropriation:

State Building Construction Account—State	\$2,492,000
Prior Biennia (Expenditures)	\$668,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$3,160,000

NEW SECTION. Sec. 5142. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Wenatchee: Center for Technical Education and Innovation (40000198)

Appropriation:

State Building Construction Account—State	\$3,266,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$41,557,000
TOTAL	\$44,823,000

NEW SECTION. Sec. 5143. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Olympic Innovation and Technology Learning Center (40000103)

Reappropriation:

State Building Construction Account—State	\$2,552,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,552,000

NEW SECTION. Sec. 5144. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Tacoma: Center for Innovative Learning and Engagement (40000104)

Appropriation:

State Building Construction Account—State	\$2,992,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$30,239,000
TOTAL	\$33,231,000

NEW SECTION. Sec. 5145. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Lower Columbia: Center for Vocational and Transitional Studies (40000106)

Appropriation:

State Building Construction Account—State	\$3,206,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$31,805,000
TOTAL	\$35,011,000

NEW SECTION. Sec. 5146. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Spokane: Apprenticeship Center (40000107)

Appropriation:

State Building Construction Account—State	\$3,368,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$30,674,000
TOTAL	\$34,042,000

NEW SECTION. Sec. 5147. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Centralia: Teacher Education and Family Development Center (40000109)

Appropriation:

State Building Construction Account—State	\$2,268,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$8,787,000
TOTAL	\$11,055,000

NEW SECTION. Sec. 5148. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Skagit: Library/Culinary Arts Building (40000110)

Appropriation:

State Building Construction Account—State	\$2,257,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$22,757,000
TOTAL	\$25,014,000

NEW SECTION. Sec. 5149. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works - Program (40000112)

Reappropriation:

State Building Construction Account—State	\$4,057,000
Prior Biennia (Expenditures)	\$35,784,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$39,841,000

NEW SECTION. Sec. 5150. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Edmonds: Triton Learning Commons (40000114)

Appropriation:

State Building Construction Account—State	\$3,656,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$34,709,000
TOTAL	\$38,365,000

NEW SECTION. Sec. 5151. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bates: Fire Service Training Center (40000130)

Reappropriation:

State Building Construction Account—State	\$2,559,000
Prior Biennia (Expenditures)	\$243,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,802,000

NEW SECTION. Sec. 5152. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Bellevue: Center for Transdisciplinary Learning and Innovation (40000168)

Reappropriation:

State Building Construction Account—State \$2,630,000

Appropriation:

State Building Construction Account—State \$39,942,000

Prior Biennia (Expenditures) \$209,000

Future Biennia (Projected Costs) \$0

TOTAL \$42,781,000

NEW SECTION. Sec. 5153. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Facility Repairs (40000169)

Reappropriation:

Community and Technical College Capital Projects

Account—State \$2,826,000

State Building Construction Account—State \$2,627,000

Subtotal Reappropriation \$5,453,000

Prior Biennia (Expenditures) \$33,074,000

Future Biennia (Projected Costs) \$0

TOTAL \$38,527,000

NEW SECTION. Sec. 5154. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Roof Repairs (40000171)

Reappropriation:

Community and Technical College Capital Projects

Account—State \$2,252,000

Prior Biennia (Expenditures) \$13,000,000

Future Biennia (Projected Costs) \$0

TOTAL \$15,252,000

NEW SECTION. Sec. 5155. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Site Repairs (40000173)

Reappropriation:

State Building Construction Account—State \$752,000

Prior Biennia (Expenditures) \$2,558,000

Future Biennia (Projected Costs) \$0

TOTAL \$3,310,000

NEW SECTION. Sec. 5156. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Everett: Baker Hall Replacement (40000190)

Reappropriation:

State Building Construction Account—State \$212,000

Prior Biennia (Expenditures) \$63,000

Future Biennia (Projected Costs) \$0

TOTAL \$275,000

NEW SECTION. Sec. 5157. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Renton: Health Sciences Center (40000204)

Appropriation:

State Building Construction Account—State	\$3,997,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$43,937,000
TOTAL	\$47,934,000

NEW SECTION. Sec. 5158. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Shoreline: STE(A)M Education Center (40000214)

Appropriation:

State Building Construction Account—State	\$3,039,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$31,961,000
TOTAL	\$35,000,000

NEW SECTION. Sec. 5159. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Cascadia: CC5 Gateway building (40000222)

Appropriation:

State Building Construction Account—State	\$3,096,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$33,486,000
TOTAL	\$36,582,000

NEW SECTION. Sec. 5160. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works - Preservation (40000258)

Reappropriation:

Community and Technical College Capital Projects Account—State	\$1,522,000
Prior Biennia (Expenditures)	\$22,217,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$23,739,000

NEW SECTION. Sec. 5161. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Pierce Puyallup: STEM Building (40000293)

Reappropriation:

State Building Construction Account—State	\$3,069,000
---	-------------

Appropriation:

State Building Construction Account—State	\$38,600,000
Prior Biennia (Expenditures)	\$300,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$41,969,000

NEW SECTION. Sec. 5162. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Repairs - Facility (40000308)

Appropriation:

State Building Construction Account—State	\$32,466,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0

TOTAL \$32,466,000

NEW SECTION. Sec. 5163. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Preventive Facility Maintenance and Building System Repairs (40000320)

Appropriation:

Community and Technical College Capital Projects

Account—State \$22,800,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$91,200,000

TOTAL \$114,000,000

NEW SECTION. Sec. 5164. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works - Preservation (40000321)

Appropriation:

Community and Technical College Capital Projects

Account—State \$26,113,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$26,113,000

NEW SECTION. Sec. 5165. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Repairs - Roof (40000361)

Appropriation:

Community and Technical College Capital Projects

Account—State \$8,087,000

State Building Construction Account—State \$3,771,000

Subtotal Appropriation \$11,858,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$11,858,000

NEW SECTION. Sec. 5166. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works - Site (40000409)

Appropriation:

State Building Construction Account—State \$3,163,000

Prior Biennia (Expenditures) \$0

Future Biennia (Projected Costs) \$0

TOTAL \$3,163,000

NEW SECTION. Sec. 5167. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

2021-23 Career Preparation and Launch Grants (40000515)

The appropriation in this section is subject to the following conditions and limitations:

(1) This appropriation is provided solely for the state board for community and technical colleges to provide competitive grants to community and technical colleges to purchase and install equipment that expands career-connected learning opportunities.

(2) The state board for community and technical colleges shall develop common criteria for providing competitive grant funding and outcomes for specific projects.

Appropriation:

State Building Construction Account—State	\$5,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$5,000,000

NEW SECTION. Sec. 5168. FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Minor Works - Infrastructure and Program (92000035)

Appropriation:

State Building Construction Account—State	\$40,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$40,000,000

NEW SECTION. Sec. 5169. FOR THE WASHINGTON STATE ARTS COMMISSION

Creative Districts Capital Construction Projects (30000002)

Appropriation:

State Building Construction Account—State	\$412,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$412,000

NEW SECTION. Sec. 5170. FOR THE WASHINGTON STATE ARTS COMMISSION

Yakima Sun Dome Reflectors (92000002)

Appropriation:

State Building Construction Account—State	\$508,000
Prior Biennia (Expenditures)	\$80,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$588,000

NEW SECTION. Sec. 5171. FOR THE STATE SCHOOL FOR THE BLIND

Independent Living Skills Center (30000107)

Reappropriation:

State Building Construction Account—State	\$700,000
---	-----------

Appropriation:

State Building Construction Account—State	\$7,636,000
Prior Biennia (Expenditures)	\$662,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$8,998,000

NEW SECTION. Sec. 5172. FOR THE STATE SCHOOL FOR THE BLIND

Minor Works: Campus Preservation 2019-21 (40000004)

Reappropriation:

State Building Construction Account—State	\$200,000
Prior Biennia (Expenditures)	\$455,000

Future Biennia (Projected Costs).....	\$0
TOTAL	\$655,000

NEW SECTION. Sec. 5173. FOR THE STATE SCHOOL FOR THE

BLIND

21-23 Campus Preservation (40000015)

Appropriation:

State Building Construction Account—State	\$475,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$475,000

NEW SECTION. Sec. 5174. FOR THE WASHINGTON CENTER FOR DEAF AND HARD OF HEARING YOUTH

Academic and Physical Education Building (30000036)

Reappropriation:

State Building Construction Account—State	\$5,000,000
---	-------------

Appropriation:

State Building Construction Account—State	\$49,439,000
Prior Biennia (Expenditures).....	\$637,000
Future Biennia (Projected Costs).....	\$0
TOTAL	\$55,076,000

NEW SECTION. Sec. 5175. FOR THE WASHINGTON CENTER FOR DEAF AND HARD OF HEARING YOUTH

Minor Works: Preservation 2021-23 (30000047)

Appropriation:

State Building Construction Account—State	\$245,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	\$245,000

PART 6

Sec. 6001. 2019 c 413 s 1007 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF COMMERCE

Public Works Assistance Account Program 2013 Loan List (30000184)

Reappropriation:

Public Works Assistance Account—State	(\$11,000,000)
	<u>\$6,760,000</u>
Prior Biennia (Expenditures).....	\$27,141,000
Future Biennia (Projected Costs).....	\$0
TOTAL	(\$38,141,000)
	<u>\$33,901,000</u>

Sec. 6002. 2019 c 413 s 1010 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF COMMERCE

Housing Trust Fund Appropriation (30000833)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 1005, chapter 35, Laws of 2016 sp. sess. and section 6008 of this act.

Reappropriation:

State Taxable Building Construction Account—State	(\$10,406,000)
	<u>\$8,906,000</u>
Washington Housing Trust Account—State	\$278,000
Subtotal Reappropriation	(\$10,684,000)
	<u>\$9,184,000</u>
Prior Biennia (Expenditures)	\$70,816,000
Future Biennia (Projected Costs)	\$0
TOTAL	(\$81,500,000)
	<u>\$80,000,000</u>

Sec. 6003. 2019 c 413 s 1014 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

2017 Local and Community Projects (30000846)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 6004, chapter 4, Laws of 2017 3rd sp. sess.

Reappropriation:

State Building Construction Account—State	(\$3,000,000)
	<u>\$2,515,000</u>
Prior Biennia (Expenditures)	\$8,363,000
Future Biennia (Projected Costs)	\$0
TOTAL	(\$11,363,000)
	<u>\$10,878,000</u>

Sec. 6004. 2020 c 356 s 6002 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

2018 Local and Community Projects (40000005)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation is subject to the provisions of section 6003 of this act, except that (~~no funding~~):

(a) Funding may not be directed to the Puyallup Meeker Mansion Public Plaza;

(b) Funding may not be provided for the NeighborCare Health project; and

(c) \$3,000,000 of the reappropriation in this section is provided solely for the Sea Mar Community Health Center project.

(2) The Interbay public development advisory committee shall provide a report to the legislature and office of the governor with recommendations by November 15, 2019. The Interbay advisory committee's recommendations must include recommendations regarding the structure, composition, and scope of authority of any subsequent state public development authority that may be established to implement the recommendations of the Interbay advisory committee.

(3) The Interbay public development advisory committee terminates June 30, 2020.

Reappropriation:

State Building Construction Account—State	(\$90,642,000)
	<u>\$90,538,000</u>
Prior Biennia (Expenditures)	\$39,799,000

Future Biennia (Projected Costs).....	\$0
TOTAL .....	..(\$130,441,000)
	<u>\$130,337,000</u>

Sec. 6005. 2020 c 356 s 1003 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF COMMERCE

2019-21 Housing Trust Fund Program (40000036)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$132,666,000 of the state taxable building construction account—state appropriation, \$44,084,000 of the state building construction account—state appropriation are provided solely for production and preservation of affordable housing. Of the amounts in this subsection:

(a) \$35,000,000 of the appropriation is provided solely for housing projects that provide supportive housing and case-management services to persons with chronic mental illness. When evaluating applications for this population, the department must prioritize low-income supportive housing unit proposals that show:

(i) Evidence that the application was developed in collaboration with one or more health care entities that provide behavioral health care services to individuals eligible for the housing provided under this subsection;

(ii) A commitment by the applicant to provide, directly or through a formal partnership, necessary treatment and supportive services to the tenants and maintain the beds or housing units for at least a forty-year period;

(iii) Readiness to begin structural modifications or construction resulting in a fast project completion;

(iv) Program requirements that adhere to the key elements of permanent supportive housing programs including choice in housing and living arrangements, functional separation of housing and services, community integration, rights of tenancy, and voluntary recovery-focused services; and

(v) To achieve geographic distribution, the department must prioritize projects in rural areas as defined by the department per RCW 43.185.050 and unserved communities with the goal of maximizing the investment and increasing the number of supportive housing units in rural, unserved communities.

(b) \$10,000,000 of the appropriation in this section is provided solely for competitive grant awards for modular housing which includes high quality affordable housing projects that will quickly move people from homelessness into secure housing and are significantly less expensive to construct than traditional housing. These funds must be awarded to projects with a total project development cost per housing unit of less than \$200,000, excluding the value of land, off-site infrastructure costs, and any capitalized reserves, compliant with the Americans with disabilities act, and with a commitment by the applicant to maintain the housing units for at least a fifty year period.

(c) \$10,000,000 of the appropriation in this section is provided solely for a state match or state matches on private contributions that fund the production and preservation of affordable housing. Awards must be made using a competitive process. If any funding remains unallocated after the first fiscal year during the 2019-2021 fiscal biennium, the department may allocate the

remaining funding through its annual competitive process for affordable housing projects that serve and benefit low-income and special needs populations in need of housing.

(d)(i) \$10,000,000 of the appropriation in this section is provided solely for housing preservation grants or loans to be awarded competitively.

(ii) The funds may be provided for major building improvements, preservation, and system replacements, necessary for the existing housing trust fund portfolio to maintain long-term viability. The department must require a capital needs assessment to be provided prior to contract execution. Funds may not be used to add or expand the capacity of the property.

(iii) To allocate preservation funds, the department must review applications and evaluate projects based on the following criteria:

(A) The age of the property, with priority given to buildings that are more than fifteen years old;

(B) The population served, with priority given to projects with at least 50 percent of the housing units being occupied by families and individuals at or below 50 percent area median income;

(C) The degree to which the applicant demonstrates that the improvements will result in a reduction of operating or utilities costs, or both;

(D) The potential for additional years added to the affordability period of the property; and

(E) Other criteria that the department considers necessary to achieve the purpose of this program.

(e)(i) \$7,000,000 of the appropriation in this section is provided solely for loans or grants to design and construct ultra-high energy efficient affordable housing projects.

(ii) To receive funding, a project must provide a life-cycle cost analysis report to the department and must demonstrate energy-saving and renewable energy systems either designed to reach net-zero energy use after housing is fully occupied or designed to achieve the most recent building standard of the passive house institute US as of the effective date of this section.

(iii) The department must consider, at a minimum and in any order, the following factors in assigning a numerical ranking to a project:

(A) Whether the proposed design has demonstrated that the project will achieve either net-zero energy use when fully occupied or will achieve the most recent building standard of the passive house institute US as of the effective date of this section;

(B) The life-cycle cost of the project;

(C) That the project demonstrates a design, use of materials, and construction process that can be replicated by the Washington building industry;

(D) The extent to which the project leverages nonstate funds;

(E) The extent to which the project is ready to proceed to construction;

(F) Whether the project promotes sustainable use of resources and environmental quality;

(G) Whether the project is being well managed to fund maintenance and capital depreciation;

(H) Reduction of housing and utilities carbon footprint; and

(I) Other criteria that the department considers necessary to achieve the purpose of this program.

(iv) The department must monitor and track the results of the housing projects that receive ultra-high energy efficiency funding under this section.

(f) (~~(\$44,084,000)~~) \$40,084,000 of the appropriation in this section is provided solely for the following list of housing projects:

Bellwether Housing (Seattle)	\$6,000,000
Capitol Hill Housing Broadway (Seattle)	\$6,000,000
((Crosswalk Teen Shelter and Transitional Housing	
Project (Spokane)	\$1,000,000
Ethiopian Community Affordable Housing (Seattle)	\$3,000,000)
FFC New Construction (Statewide)	\$1,384,000
FUSION Emergency Housing for Homeless Families	
(Federal Way)	\$3,000,000
Highland Village (Airway Heights)	\$5,500,000
Home At Last (Tacoma)	\$2,250,000
Interfaith Works Shelter (Olympia)	\$3,000,000
Pateros Gardens (Pateros)	\$1,400,000
SCIDpda North Lot (Seattle)	\$9,000,000
Tenny Creek Assisted Living (Vancouver)	\$1,750,000
THA Arlington Drive (Tacoma)	\$800,000

(g) \$6,000,000 of the appropriation for Capitol Hill Housing Broadway (Seattle) in (f) of this subsection is provided solely for the purchase of the three south annex properties. The state board for community and technical colleges must transfer the three south annex properties located at 1500 Broadway, 1534 Broadway, and 909 East Pine street in Seattle to Capitol Hill Housing to provide services and housing for homeless youth or young adults at the 1500 Broadway and 909 East Pine street properties for a minimum of fifty years. The transfer agreement between the state board for community and technical colleges and Capitol Hill Housing must specify a mutually agreed transfer date and require Capitol Hill Housing to cover any closing costs with a total purchase price of nine million dollars for the three properties. The contract between the department and Capitol Hill Housing must:

(i) Provide that Capitol Hill Housing is responsible for maintaining and securing the 1500 Broadway and 909 East Pine properties until the site is redeveloped;

(ii) Specify that, if Capitol Hill Housing does not construct at least seventy affordable housing units on the site by 2028, this funding must be fully repaid to the state or the land must revert back to the state; and

(iii) Require that Capitol Hill Housing transfer the 1534 Broadway property to YouthCare Service Center for the purpose of developing a youth community center.

(h) \$5,000,000 of the state taxable building construction account—state appropriation is provided solely for competitive grant awards for the development of community housing and cottage communities to shelter individuals or households experiencing homelessness. This funding must be awarded to projects that develop a minimum of four individual structures in the same location. Individual structures must contain insulation, electricity, overhead lights, and heating. Kitchens and bathrooms may be contained within the individual structures or offered as a separate facility that is shared with the

community. When evaluating applications for this grant program, the department must prioritize projects that demonstrate:

- (i) The availability of land to locate the community;
 - (ii) A strong readiness to proceed to construction;
 - (iii) A longer term of commitment to maintain the community;
 - (iv) A commitment by the applicant to provide, directly or through a formal partnership, case management and employment support services to the tenants;
 - (v) Access to employment centers, health care providers and other services;
- and
- (vi) A community engagement strategy.

(i) \$5,666,000 of the appropriation in this section is provided solely for affordable housing projects that serve and benefit low-income and special needs populations in need of housing. Of the amounts appropriated in this subsection, the department must allocate the funds as follows:

- (i) \$5,000,000 of the appropriation in this section is provided solely for housing for veterans;
- (ii) \$3,616,000 of the appropriation in this section is provided solely for housing that serves people with developmental disabilities;
- (iii) \$5,000,000 of the appropriation in this section is provided solely for housing that serves people who are employed as farmworkers; and
- (iv)(A) \$5,000,000 of the appropriation in this section is provided solely for housing projects that benefit homeownership.

(B) During the 2019-2021 fiscal biennium, the department must use a separate application form for applications to provide homeownership opportunities and evaluate homeownership project applications as allowed under chapter 43.185A RCW.

(C) In addition to the definition of "first-time home buyer" in RCW 43.185A.010, for the purposes of awarding homeownership projects during the 2019-2021 fiscal biennium "first time home buyer" also includes:

- (I) A single parent who has only owned a home with a former spouse while married;
- (II) An individual who is a displaced homemaker as defined in 24 C.F.R. Sec. 93.2 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and has only owned a home with a spouse;
- (III) An individual who has only owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations; or
- (IV) An individual who has only owned a property that is discerned by a licensed building inspector as being uninhabitable.

(2) In evaluating projects in this section, the department must give preference for applications based on some or all of the criteria in RCW 43.185.070(5).

(3)(a) The department must strive to allocate all of the amounts appropriated in this section within the 2019-2021 fiscal biennium in the manner prescribed in subsection (1) of this section. However, if upon review of applications the department determines there are not adequate suitable projects in a category, the department may allocate funds to projects serving other low-income and special

needs populations, provided those projects are located in an area with an identified need for the type of housing proposed.

(b) By June 30, 2021, the department must report on its web site the following for every previous funding cycle: The number of homeownership and multifamily rental projects funded by housing trust fund moneys; the percentage of housing trust fund investments made to homeownership and multifamily rental projects; and the total number of households being served at up to eighty percent of the area median income, up to fifty percent of the area median income, and up to thirty percent of the area median income, for both homeownership and multifamily rental projects.

(4)(a) The department, in cooperation with the housing finance commission, must develop and implement a process for the collection of certified final development cost data from each grant or loan recipient under this section. The department must use this data as part of its cost containment policy.

(b) Beginning December 1, 2019, and continuing annually, the department must provide the legislature with a report of its final cost data for each project under this section. Such cost data must, at a minimum, include total development cost per unit for each project completed within the past year, descriptive statistics such as average and median per unit costs, regional cost variation, and other costs that the department deems necessary to improve cost controls and enhance understanding of development costs. The department must coordinate with the housing finance commission to identify relevant development costs data and ensure that the measures are consistent across relevant agencies.

Appropriation:

State Building Construction Account—State	(\$44,084,000)
	<u>\$40,084,000</u>
State Taxable Building Construction	
Account—State	\$132,666,000
Subtotal Appropriation	(\$176,750,000)
	<u>\$172,750,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$480,000,000
TOTAL	(\$656,750,000)
	<u>\$652,750,000</u>

Sec. 6006. 2020 c 356 s 1006 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

2019-21 Early Learning Facilities (40000044)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$300,000 of the state building construction account—state appropriation is provided solely for the department of children, youth, and families to provide technical assistance to the department for the early learning facilities grants in this section.

(2) \$9,062,000 of the state building construction account—state appropriation is provided solely for the following list of early learning facility projects in the following amounts:

Proclaim Liberty Early Learning Facility	\$1,000,000
Roosevelt Child Care Center	\$1,500,000

City of Monroe, Boys & Girls Club ECEAP Facility	\$1,000,000
Family Support Center Olympia	\$600,000
Centralia-Chehalis Early Learning Conversion Project.	\$3,000,000
((Club Discovery Early Learning	\$100,000)
Anacortes Family Center	(\$309,000) <u>\$409,000</u>
Boys & Girls Club Daycare	\$773,000
Issaquah School District Early Learning Center	\$155,000
Opportunity Council Early Learning Central Kitchen	\$52,000
Samish Longhouse Early Learning Center Expansion	\$273,000
Triumph Treatment Services Child Care	\$300,000

(3) (~~\$4,186,000~~) \$3,410,000 of the early learning facilities development account—state appropriation in this section is provided solely for the following list of early learning facility projects for school districts, subject to the provisions of RCW 43.31.573 through 43.31.583 and 43.84.092, in the following amounts:

Toppenish School District	\$111,000
Manson School District	\$400,000
Kettle Falls School District	\$395,000
North Thurston School District	\$324,000
Ellensburg School District	\$800,000
Everett School District	(\$800,000) <u>\$24,000</u>
Tukwila School District	\$196,000
Richland School District	\$800,000
Lake Quinalt School District	\$360,000

(4) The remaining portion of the appropriation in this section is provided solely for early learning facility grants and loans subject to the provisions of RCW 43.31.573 through 43.31.583 and 43.84.092 to provide state assistance for designing, constructing, purchasing, expanding, or modernizing public or private early learning education facilities for eligible organizations.

(5) The department of children, youth, and families must develop methodology to identify, at the school district boundary level, the geographic locations of where early childhood education and assistance program slots are needed to meet the entitlement specified in RCW 43.216.556. This methodology must be linked to the caseload forecast produced by the caseload forecast council and must include estimates of the number of slots needed at each school district. This methodology must inform any early learning facilities needs assessment conducted by the department of commerce and the department of children, youth, and families. This methodology must be included as part of the budget submittal documentation required by RCW 43.88.030.

(6) When prioritizing areas with the highest unmet need for early childhood education and assistance program slots, the committee of early learning experts convened by the department of commerce pursuant to RCW 43.31.581 must first consider those areas at risk of not meeting the entitlement in accordance with RCW 43.216.556.

(7) The department of commerce must track the number of slots being renovated separately from the number of slots being constructed and, within these categories, must track the number of slots separately by program for the

working connections child care program and the early childhood education and assistance program.

(8) When prioritizing applications for projects, pursuant to subsection (4) of this section, within the boundaries of a regional transit authority in a county that has received distributions or appropriations under RCW 43.79.520, the department must give priority to applications for which at least ten percent of the total project cost is supported by those distributions or appropriations.

(9) The department, in consultation with the office of the superintendent of public instruction and the department of children, youth, and families must identify buildings in the inventory and condition of schools database that are no longer included in the inventory of K-12 instructional space for purposes of calculating school construction assistance pursuant to chapter 28A.515 RCW, but that could be repurposed as early learning facilities and made available to eligible organizations. The department must report its findings and the list of buildings identified in this section to the office of financial management and the appropriate fiscal committees of the legislature by January 15, 2020.

Appropriation:

State Building Construction Account—State	\$9,362,000
Early Learning Facilities Revolving Account—State	\$22,248,000
Early Learning Facilities Development Account—State	(\$4,186,000)
	<u>\$3,410,000</u>
Subtotal Appropriation	(\$35,796,000)
	<u>\$35,020,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$80,000,000
TOTAL	(\$115,796,000)
	<u>\$115,020,000</u>

Sec. 6007. 2020 c 356 s 1011 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

2020 Local and Community Projects (40000116)

The appropriation in this section is subject to the following conditions and limitations:

(1) The department shall not expend the appropriation in this section unless and until the nonstate share of project costs have been either expended or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature. This requirement does not apply to projects where a share of the appropriation is for design costs only.

(2) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations in which the sole purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and shall not be advanced under any circumstances.

(5) In contracts for grants authorized under this section the department shall include provisions which require 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.

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) The appropriation is provided solely for the following list of projects:

?al?al "Home" in Lushootseed (Seattle)	\$947,000
4th Ave. Street Enhancement (White Center)	\$670,000
Abigail Stuart House (Olympia)	\$250,000
Aging in PACE Washington (AiPACE) (Seattle)	(\$1,500,000) <u>\$5,000,000</u>
Airport Utility Extension (Pullman)	\$1,626,000
Aquatic and Recreation Center (King County)	\$1,050,000
Arivva Community Center (Tacoma)	\$1,000,000
Arlington B&G Club Parking Safety (Arlington)	\$530,000
Asotin Masonic Lodge (Asotin)	(\$62,000) <u>\$82,000</u>
Auburn Arts & Culture Center (Auburn)	\$500,000
Audubon Center (Sequim)	\$1,000,000
B&GC of Olympic Peninsula (Port Angeles)	\$500,000
B&GC of Thurston County (Lacey)	\$98,000
Ballard Food Bank (Seattle)	\$750,000
Beacon Center Renovation (Tacoma)	\$1,000,000
Bellevue HERO House (Bellevue)	\$46,000
Benton Co. Museum Building Improvements (Prosser)	\$103,000
Big Brothers Big Sisters Learning Lab (Olympia)	\$56,000
Blue Mountain Action Council Comm. Services Center (Walla Walla)	\$1,000,000
Bothell Downtown Revitalization (Bothell)	\$1,500,000
Bowers Field Airport (Ellensburg)	\$275,000
Boys & Girls Club of Thurston Co. Upgrades (Rochester)	\$31,000
Boys & Girls Club Roof and Flooring Repairs (Federal Way)	\$319,000
Breeze Creek Culvert Replacement/East 4th St. Widening (La Center)	\$1,500,000
Browns Park Project (Spokane Valley)	\$536,000
Buffalo Soldiers' Museum (Seattle)	\$200,000
Camas Washougal Nature Play Area (Washougal)	\$103,000
Campus Towers (Longview)	\$228,000
Carbonado Water Source Protection Acquisition (Carbonado)	\$1,500,000

Carl Maxey Center (Spokane)	\$350,000
Carlisle Lake Park Improvements (Onalaska)	\$213,000
Carlyle Housing Facility Upgrades (Spokane)	\$400,000
Cathlamet Pioneer Center Restoration (Cathlamet)	\$165,000
Centerville Fire Dept. (Centerville)	\$216,000
Centerville Grange (Centerville)	\$90,000
<u>Central Stage Theatre of County Kitsap (Silverdale)</u>	<u>\$964,000</u>
Centralia Fox Theater (Centralia)	\$1,000,000
Chehalis River Bridge Ped Safety Lighting Ph2 (Aberdeen)	\$323,000
Cheney Reclaimed Water Project (Cheney)	\$2,000,000
Chief Kitsap Education and Community Resource Center (Poulsbo)	\$1,000,000
Chief Leschi Schools Facilities & Safety Project (Puyallup)	\$250,000
Chief Leschi Schools Safety & Security (Puyallup)	\$250,000
Clymer Museum Remodel Ph2 (Ellensburg)	\$258,000
Colfax Pantry Building (Colfax)	\$247,000
Community Services of Moses Lake Food Bank Facility (Moses Lake)	\$2,000,000
Conconully Community Services Complex (Conconully)	\$515,000
Cosmopolis Elem. Energy & Safety (Cosmopolis)	\$206,000
Coulee City Medical Clinic (Coulee City)	\$150,000
Curran House Museum (University Place)	\$43,000
Dakota Homestead (Seattle)	\$155,000
Dawson Park Improvements (Tacoma)	\$515,000
Dayton Pump Station (Edmonds)	\$515,000
Downtown Park Gateway (Bellevue)	\$1,030,000
Dungeness River Audubon Center Expansion (Sequim)	\$500,000
East Blaine Infrastructure (Blaine)	\$500,000
Ejido Community Farm (Whatcom)	\$250,000
El Centro de la Raza Federal Way Office (Federal Way)	\$1,000,000
Enumclaw Aquatic Center (Enumclaw)	\$258,000
Enumclaw Expo Center Roof (Enumclaw)	\$250,000
Everett TOD Study (Everett)	\$200,000
Everett YMCA (Everett)	\$1,000,000
Evergreen High School Health Center (Vancouver)	\$388,000
Evergreen Speedway Capital Improvement (Monroe)	\$150,000
Excelsior Integrated Care Ctr. Sports Court (Spokane)	\$266,000
Excelsior Roof & Gym Repair (Spokane)	\$263,000
Excelsior Vocational Education Space (Spokane)	\$164,000
Expanding on Excellence Capital Campaign (White Salmon)	\$500,000
Family Education and Support Services (Tumwater)	\$500,000
Felts Field Gateway Improvement Phase 1 (Spokane)	\$100,000
Fennel Creek Trailhead (Bonney Lake)	\$258,000
Filipino Hall Renovation (Wapato)	\$63,000
Fircrest Pool (Fircrest)	\$1,000,000
FISH Food Bank (Ellensburg)	\$772,000
Fishtrap Creek Habitat Improvement (Lynden)	\$258,000
Flood Plain Stabilization, Habitat Enhancement (Kent)	\$1,000,000

Food Lifeline (Seattle)	\$1,004,000
Foothills Trail Extension (Wilkeson)	\$500,000
Fort Steilacoom Park Artificial Turf Infields (Lakewood)	\$1,015,000
Fourth Plain Community Commons (Vancouver)	\$800,000
Garfield Co. Hospital HVAC (Pomeroy)	\$250,000
Gateway Center (Grays Harbor)	\$500,000
Gene Coulon Memorial Beach Park Play Equipment Upgrade (Renton)	\$618,000
George Community Hall Roof (George)	\$201,000
George Davis Creek Fish Passage Project (Sammamish)	\$515,000
Gig Harbor Food Bank (Gig Harbor)	\$180,000
Goldendale Airport (Goldendale)	\$550,000
Granger Historical Museum Construction (Granger)	\$150,000
Granite Falls Police Dept. Renovation Project (Granite Falls)	\$412,000
Grays Harbor and Willapa Bay Sedimentation (Grays Harbor)	\$464,000
Grays Harbor YMCA (Grays Harbor)	\$293,000
Greater Maple Valley Veterans Memorial (Maple Valley)	\$102,000
Green Bridges, Healthy Communities; Aurora Bridge I-5 (Seattle)	\$1,500,000
Greenwood Cemetery Restoration (Centralia)	\$402,000
Greenwood Cemetery Safety Upgrades (Centralia)	\$91,000
HealthPoint (Tukwila)	\$1,000,000
HealthPoint Dental Expansion (SeaTac)	\$1,545,000
Heritage Senior Housing (Chelan)	\$52,000
High Dune Trail & Conservation Project (Ocean Shores)	\$140,000
Historic Downtown Chelan Revitalization (Chelan)	\$52,000
Historic Olympic Stadium Preservation Project (Hoquiam)	\$515,000
Historical Museum & Community Center Roof Replacement (Washtucna)	\$24,000
Historical Society Energy Upgrades (Anderson Island)	\$14,000
Hoh Tribe Broadband (Grays Harbor)	\$129,000
Horseshoe Lake ADA Upgrades (Woodland)	\$82,000
Housing Needs Study (Statewide)	\$200,000
Howard Bowen Event Complex (Sumas)	\$1,712,000
Howe Farm Water Service (Port Orchard)	\$52,000
ICHS Bellevue Clinic Renovation Project (Bellevue)	\$1,600,000
Illahee Preserve's Lost Continent Acquisition (Bremerton)	\$335,000
Imagine Children's Museum Expansion and Renovation (Everett)	\$2,000,000
Index Water System Design (Index)	\$23,000
Infrastructure for Economic Development (Port Townsend)	\$675,000
Innovative Health Care Learning Center Phase 1 (Yakima)	\$500,000
Interactive Educ. Enh./Friends Issaquah Hatchery (Issaquah)	\$113,000
Intersection Improvements Juanita Dr. (Kirkland)	\$750,000
Japanese American Exclusion Memorial (Bainbridge Island)	\$155,000
Japanese Gulch Daylight Project (Mukilteo)	\$400,000

Keller House and Carriage House Paint Restoration (Colville)	\$45,000
Key Kirkland Sidewalk Repairs (Kirkland)	\$537,000
Key Peninsula Elder Community (Gig Harbor)	\$1,000,000
Ki-Be School Parking Lot Improvements (Benton City)	\$268,000
Kitsap Conservation Study (Kitsap)	\$51,000
Kittitas Valley Event Center (Ellensburg).	\$206,000
Klickitat Co. Sheriff Office Training Bldg. (Goldendale)	\$335,000
KNKX Radio Studio (Tacoma).	\$824,000
Lacey Veterans Services Hub Facility Renovation (Lacey)	\$2,000,000
Lake Chelan Community Center (Lake Chelan)	\$250,000
Lake Chelan Water Supply (Wenatchee)	\$464,000
Lake City Community Center Replacement (Seattle)	\$2,000,000
Lake Stevens Civic Center Phase II (Lake Stevens).	\$1,000,000
Lake Sylvia State Park Pavilion (Montesano)	\$250,000
Lake Wilderness Park Improvements (Maple Valley)	\$200,000
Land Use & Infrastructure Subarea Plan (Mill Creek).	\$300,000
Larson Gallery Renovation (Yakima)	\$875,000
Leffler Park (Manson).	\$265,000
Legacy in Motion (Puyallup)	\$1,750,000
Legacy Site Utility Infrastructure (Maple Valley)	\$154,000
Lewis Co. CHS Pediatric Clinic (Centralia).	\$84,000
Little Badger Mountain Trailhead (Richland).	\$464,000
Little Mountain Road Pipeline and Booster Station (Mount Vernon)	\$1,300,000
Long Beach Police Department (Long Beach)	\$705,000
Lopez Island Swim Center (Lopez Island)	\$1,000,000
((Lummi Hatchery Project (San Juan)	\$1,000,000))
Mabton City Park (Mabton)	\$54,000
Main Street Redevelopment Project - Phase 2 (University Place)	\$985,000
Mariner Community Campus (Everett)	\$2,250,000
Mary's Place (Burien)	\$2,050,000
Marymount Museum/Spana-Park Senior Center (Spanaway)	\$1,000,000
McChord Airfield North Clear Zone (Lakewood)	\$500,000
McCormick Woods Sewer Lift #2 Improvements (Port Orchard)	\$800,000
Melanie Dressel Park (Tacoma)	\$500,000
Mercer Is/Aubrey Davis Park Trail Upgrade (Mercer Island)	\$500,000
Missing & Murdered Indigenous Women Memorial (Toppenish)	\$49,000
Monroe B&G Club ADA Improvements (Monroe)	\$464,000
Mountlake Terrace Main Street (Mountlake Terrace).	\$750,000
Mt. Adams Comm. Forest, Klickitat Canyon Rim Purchase (Glenwood)	\$400,000
Mt. Adams School District Athletic Fields (Harrah)	\$242,000
Mt. Peak Fire Lookout Tower (Enumclaw)	\$381,000
Mt. Spokane SP Ski Lift (Mead).	\$750,000
Mukilteo Promenade (Mukilteo).	\$500,000
Museum Storage Building (Steilacoom).	\$72,000
Naches Fire/Rescue, Yakima Co. #3 (Naches)	\$200,000

Naselle HS Music/Vocational Wing (Naselle)	\$258,000
Naselle Primary Care Clinic (Naselle)	\$216,000
Naselle SD Flooring (Naselle)	\$237,000
NCRA Maint. Bldg., Parking Lot, Event Space (Castle Rock)	\$283,000
NEW Health Programs, Colville Dental Clinic (Colville)	\$1,250,000
Newman Lake Flood Control Zone District (Newman Lake)	\$415,000
North Elliott Bay Public Dock; Marine Transit Terminal (Seattle)	\$1,750,000
Northaven Affordable Senior Housing Campus (Seattle)	\$1,000,000
Northshore Senior Center Rehabilitation Project (Bothell)	\$500,000
Northwest African American Museum (Seattle)	\$500,000
Northwest Native Canoe Center (Seattle)	\$986,000
NW School of Wooden Boatbuilding (Port Hadlock)	\$464,000
Oak Harbor Marina (Oak Harbor)	\$400,000
Oakville SD Kitchen Renovation (Oakville)	\$517,000
Oddfellows Ellensburg Bldg. Restoration (Ellensburg)	\$267,000
Opening Doors - Permanent Supportive Housing Facility (Bremerton)	\$750,000
Orting City Hall and Police Station (Orting)	\$600,000
Orting Ped Evac Crossing (Orting)	\$103,000
Othello Regional Water (Othello)	\$425,000
Outdoors for All (Seattle)	\$1,000,000
Pacific Co. Fairgrounds Roof (Menlo)	\$210,000
Packwood FEMA Floodplain Study (Packwood)	\$637,000
Pasco Farmers Market & Park (Pasco)	\$154,000
Pendergast Regional Park Phase II (Bremerton)	\$50,000
Peninsula Community Health Service Dental Mobile (Bremerton)	\$340,000
PenMet - Cushman Trail Enhancements (Gig Harbor)	\$52,000
PenMet Community Rec Center (Gig Harbor)	\$173,000
Pet Overpopulation Prevention Vet Clinic Building (West Richland)	\$300,000
Pine Garden Apartment Roof (Shelton)	\$46,000
Pioneer Park Fountain (Walla Walla)	\$9,000
Pomeroy Booster Pumping Station (Pomeroy)	\$112,000
Port of Everett (Everett)	\$300,000
Port of Ilwaco Boatyard Modernization (Ilwaco)	\$545,000
Port of Willapa Harbor Dredging Support Boat (Tokeland)	\$180,000
Poulsbo Historical Society (Poulsbo)	\$400,000
Prairie View Schoolhouse Community Center (Waverly)	\$57,000
Protect Sewer Plant from Erosion (Ocean Shores)	\$155,000
Puyallup Culvert Replacement (Puyallup)	\$515,000
Puyallup Street Frontage Improvement (Puyallup)	\$258,000
Puyallup VFW Kitchen Renovation (Puyallup)	\$52,000
Quincy Hospital (Quincy)	\$300,000
Quincy Square on 4th (Bremerton)	\$206,000
Recreation Park Renovation (Chehalis)	\$258,000
Redmond Pool (Redmond)	\$1,000,000
Rehabilitating Fort Worden's Historic Warehouses	\$712,000

Renton Trail Connector (Renton)	\$500,000
Richmond Highland Recreation Center Repairs (Shoreline)	\$500,000
Rise Together White Center Project (King County)	\$1,000,000
Ritzville Business & Entrepreneurship Center (Ritzville)	\$350,000
Rosalia Sewer Improvements (Rosalia)	\$500,000
Roslyn Downtown Assoc. (Roslyn)	\$480,000
Roslyn Housing Project (Roslyn)	\$2,000,000
Royal Park & Rec Ctr. (Royal City)	\$250,000
Sargent Oyster House Maritime Museum (Allyn)	\$218,000
Schmid Ballfields Ph3 (Washougal)	\$584,000
Scott Hill Park & Sports Complex (Woodland)	\$500,000
Sea Mar Community Health Centers Tumwater Dental (Olympia)	\$170,000
Seaport Landing (Aberdeen)	\$404,000
Seattle Aquarium (Seattle)	\$1,000,000
Seattle Goodwill (Seattle)	\$2,000,000
Seattle Indian Health Board (Seattle)	\$1,000,000
Sewage Lagoon Decommissioning (Concrete)	\$255,000
Shelton Civic Center Parking Lot (Shelton)	\$283,000
Shoreline Maintenance Facility - Brightwater Site (Shoreline)	\$500,000
Skabob House Cultural Center (Shelton)	\$350,000
Skagit County Sheriff Radios (Skagit)	\$1,000,000
Skamania Courthouse Plaza (Stevenson)	\$150,000
<u>Skookum Creek Hatchery Project (Acme)</u>	<u>\$1,000,000</u>
Snohomish Carnegie Project (Snohomish)	\$500,000
((Snohomish County Sheriff's Office South Precinct (Snohomish)	\$1,000,000))
Snohomish Fire District #26 Communications Project (Gold Bar)	\$27,000
Snoqualmie Early Learning Center (Snoqualmie)	\$500,000
Snoqualmie Valley Youth Activities Center (North Bend)	\$412,000
South Fork Snoqualmie Levee Setback Project (North Bend)	\$250,000
SOZO Sports Indoor Arena (Yakima)	\$600,000
Spokane Sportsplex (Spokane)	\$1,000,000
Springbrook Park Expansion & Clover Creek Restoration (Lakewood)	\$773,000
SR 503 Ped/Bike Ph1&2 (Woodland)	\$235,000
SR 530 "Oso" Slide Memorial (Arlington)	\$300,000
Stan and Joan Cross Park (Tacoma)	\$500,000
Starfire Sports STEM (Tukwila)	\$250,000
Stevens Co. Disaster Response Communications (Colville)	\$500,000
Sultan Water Treatment Plant Design (Sultan)	\$246,000
Sumas History Themed Playground and Water Park (Sumas)	\$288,000
Sunnyside Airport Hangar Maintenance Facility (Sunnyside)	\$750,000
Sunnyside Yakima Valley-TEC Welding Program (Yakima)	\$26,000
Sunset Multi-Service & Career Development Center (Renton)	\$1,000,000

SW WA Dance Center (Chehalis)	\$62,000
SW WA Fairgrounds (Chehalis)	\$103,000
SW Washington Regional Agriculture & Innovation Park (Tenino)	\$1,500,000
Swede Hall Renovation (Rochester)	\$196,000
Tacoma Community House (Tacoma)	\$413,000
Tam O'Shanter Park Circulation & Parking Phase 2 (Kelso)	\$1,030,000
Tehaleh Slopes Bike Trail (Bonney Lake)	\$309,000
Tenino City Hall Renovation (Tenino)	\$515,000
Terminal 1 Waterfront Development (Vancouver)	\$4,700,000
The AMP: Aids Memorial Pathway (Seattle)	\$600,000
The Morck Hotel (Aberdeen)	\$500,000
Toledo Sewer & Water (Toledo)	\$469,000
Tonasket Senior Citizen Ctr. (Tonasket)	\$33,000
Town Center to Burke Gilman Trail Connector (Lake Forest Park)	\$500,000
Tukwila Village Food Hall (Tukwila)	\$400,000
Twin Springs Park (Kenmore)	\$155,000
Twisp Civic Building & EOC (Twisp)	\$1,288,000
United Way of Pierce County HVAC (Tacoma)	\$206,000
University Place Arts (University Place)	\$34,000
Vertical Evacuation (Ocean Shores)	\$500,000
Veterans Memorial Museum (Chehalis)	\$123,000
Veterans Supportive Housing (Yakima)	\$2,500,000
VOA Lynnwood Center (Lynnwood)	\$1,050,000
Volunteer Park Amphitheater (Seattle)	\$500,000
West Kelso Affordable Housing & Community Facility Study (Kelso)	\$258,000
WA Poison Control IT (Seattle)	\$151,000
Waitsburg Taggart Road Waterline (Waitsburg)	\$456,000
Wallula Dodd Water System Improvement (Walla Walla)	\$1,000,000
Wapato Creek Restoration (Fife)	\$258,000
Warren Ave. Playfield (Bremerton)	\$206,000
Washington Park Boat Launch Storm Damage (Anacortes)	\$200,000
Wesley Homes (Des Moines)	\$2,000,000
Westport Dredge Material Use (Westport)	\$250,000
Whidbey Is. B&G Coupeville (Coupeville)	\$849,000
Whidbey Is. B&G Oak Harbor (Oak Harbor)	\$743,000
Wilkeson Water Protection (Wilkeson)	\$36,000
Willapa BH - Long Beach Safety Improvement Project (Long Beach)	\$225,000
William Shore Memorial Pool (Port Angeles)	\$840,000
Wing Luke Museum Homestead Home (Seattle)	\$500,000
Wisdom Ridge Business Park (Ridgefield)	\$2,000,000
Yakima Co. Veterans Dental Facility (Yakima)	\$469,000
Yakima Valley Fair & Rodeo Multi-Use Facility (Grandview)	\$200,000
Yelm Business Incubator Serving Thurston/Pierce	

Counties (Yelm)	\$200,000
Yelm Water Tower (Yelm)	\$303,000
YMCA Childcare Center Tenant Improvements (Woodinville)	\$1,000,000

(8) \$400,000 of the appropriation in this section is provided solely to the city of Oak Harbor to enhance the fiscal sustainability and revenue generation of the city-owned marina through feasibility work, planning, development, and acquisition.

(9) \$200,000 of the appropriation in this section is provided solely for the department to contract for a study regarding both available and needed affordable housing for farmworkers and Native Americans in Washington state. The study must include data to inform policies related to affordable housing for farmworkers and Native Americans and supplement the housing assessment conducted by the affordable housing advisory board created in chapter 43.185B RCW.

(10) \$200,000 of the appropriation in this section is provided solely for a grant to the Tacoma buffalo soldiers' museum to conduct a feasibility study for the rehabilitation of building 734, the band barracks at Fort Lawton in Discovery park. The study will provide an assessment of general conditions of building 734 and cost estimates for a comprehensive rehabilitation of the building to meet current building codes including, but not limited to heating, ventilation, air conditioning, and mechanical systems, seismic retrofits, and compliance with the Americans with disabilities act.

(11) \$1,300,000 of the appropriation in this section is provided solely for a grant to the Skagit public utility district for the Little Mountain Road pipeline and booster station. \$1,000,000 of these funds are provided solely for the design phase of the project; \$150,000 of these funds are provided solely for land acquisition; and \$150,000 of these funds are provided solely to the district for a public outreach effort to solicit input on the project from residents and rate payers.

(12) \$1,500,000 of the appropriation in this section is provided solely for preconstruction activities by Aging in PACE (AiPACE) (Seattle).

(13) \$2,000,000 of the appropriation in this section for Roslyn Housing Project is provided solely for a grant to enable Forterra NW, or a wholly-owned subsidiary of Forterra NW, to begin work on a community development project in the city of Roslyn that includes housing, commercial, retail, or governmental uses. The work must include phased preacquisition due diligence, land acquisition or predevelopment engineering, design, testing, and permitting activities, including work done by both the appropriation recipient and third parties retained by the recipient.

(14) \$200,000 of the appropriation in this section is provided solely for a feasibility study to locate the Buffalo Soldiers Museum at Fort Lawton in Seattle. Approval of a memorandum of understanding regarding the feasibility study must involve the city of Seattle and the Buffalo Soldiers Museum. The department may not impose any additional requirements on the feasibility study.

Appropriation:

State Building Construction Account—State	(\$163,011,000)
	<u>\$167,207,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0

TOTAL(((\$163,011,000))
\$167,207,000

Sec. 6008. 2020 c 356 s 1013 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF COMMERCE
2021 Local and Community Projects (40000130)

The appropriation in this section is subject to the following conditions and limitations:

(1) The department may not expend the appropriation in this section unless and until the nonstate share of project costs have been either expended or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature. This requirement does not apply to projects where a share of the appropriation is for design costs only.

(2) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations in which the sole purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and may not be advanced under any circumstances.

(5) In contracts for grants authorized under this section, the department must include provisions that require 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.

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

- (7) The appropriation is provided solely for the following list of projects:
- ?a?al Chief Seattle Club (Seattle)\$200,000
 - 92nd Ave. Sewer Ext. (Battle Ground)\$258,000
 - Academy Smokestack Preservation (Vancouver)\$103,000
 - African Refugee & Immigrant Housing (Tukwila)\$200,000
 - AG Tour Train Ride (Reardan)\$125,000
 - Algona Wetland Preserve and Trail (Algona)\$50,000
 - Anderson Island Historical Society (Anderson Island)\$10,000
 - Anderson Road Infrastructure (Chelan)\$258,000
 - Ashley House (Shoreline)\$100,000
 - Asotin County Library Meeting Space (Clarkston)\$13,000
 - ASUW Shell House (WWI Hanger/Canoe House) (Seattle)\$100,000
 - Auburn Family YMCA (Auburn)\$128,000

Ballard P-Patch (Seattle)	\$258,000
Ballinger Park-Hall Creek Restoration (Mountlake Terrace)	\$200,000
Bellevue Parks Changing Tables (Bellevue)	\$100,000
Bethel High School Pierce College Annex Campus (Graham)	\$300,000
Brewery Park Visitor Center (Tumwater)	\$50,000
Brewing Malting & Distilling System (Tumwater)	\$112,000
Bridgeport Irrigation (Brewster)	\$70,000
Cathlamet Pioneer Center Restoration (Cathlamet)	\$55,000
Centralia Chehalis Steam Train Repair (Chehalis)	\$154,000
Centro Cultural Mexicano (Redmond)	\$80,000
City of Fircrest Meter Replacement (Fircrest)	\$200,000
Columbia Dance Down Payment for Building Purchase (Vancouver)	\$100,000
Columbia Heritage Museum Repairs (Ilwaco)	\$150,000
Communities of Concern Commission (Statewide)	\$250,000
Community House on Broadway Kitchen Upgrades (Longview)	\$41,000
Community Hub Public Safety Initiative (Walla Walla)	\$200,000
Community Pedestrian Safety (Tukwila)	\$100,000
Community Youth Services Renovation (Olympia)	\$155,000
Conconully Fire & Rescue (Riverside)	\$179,000
Creative Districts (Statewide)	\$200,000
<u>Crosswalk Teen Shelter (Spokane)</u>	<u>\$2,500,000</u>
Doris Morrison Environmental Learning Center (Greenacres)	\$500,000
Downtown Pasco Revitalization (Pasco)	\$350,000
Edmonds Carbon Recovery (Edmonds)	\$250,000
EL 79.2 Distribution System Design (Othello)	\$175,000
El Centro de la Raza (Seattle)	\$2,000,000
Emergency Lockdown Shelter for Outdoor Preschool (various)	\$24,000
Emergency Shelter Project (Skykomish)	\$20,000
Emergency Structural Repairs 1902 Van Marter Building (Lind)	\$25,000
Everett Recovery Cafe Renovation Project (Everett)	\$200,000
Federal Way Little League Fields (Federal Way)	\$50,000
Federal Way Safety Cameras (Federal Way)	\$103,000
Field Arts and Events Hall (Port Angeles)	\$1,500,000
Filipino Community Center (Seattle)	\$1,000,000
Filipino-American Community Center (Bremerton)	\$165,000
Five Mile Roundabout Art Project (Spokane)	\$25,000
Fort Worden PDA - Sage Arts & Ed Center (Port Townsend)	\$560,000
Franklin Pierce Farm ARC (Tacoma)	\$1,070,000
Fusion Housing (Federal Way)	\$62,000
George Schmid Ball Field #3 and Lighting Phase 3 (Washougal)	\$200,000

Gig Harbor Community Campus (Gig Harbor)	\$52,000
Gig Harbor Peninsula FISH (Gig Harbor)	\$250,000
Grant Co. Fairgrounds Lighting (Moses Lake)	\$290,000
Harlequin State Theater (Olympia)	\$88,000
Hilltop Housing (Tacoma)	\$500,000
Home At Last (Tacoma)	\$200,000
If You Could Save Just One (Spokane)	\$100,000
Index Water Line Replacement and Repair (Index)	\$105,000
Institute for Community Leadership (Kent)	\$46,000
Islands' Oil Spill Association (Friday Harbor)	\$232,000
Jefferson County Food Preservation (Port Ludlow)	\$5,000
King County (Emergency Training Facility) <u>Raging River Quarry Property</u> (Fall City)	\$1,000,000
Kingston Coffee Oasis (Kingston)	\$150,000
Kitsap Humane Society (Silverdale)	\$500,000
Klickitat Co. Domestic Violence Shelter (Goldendale)	\$250,000
Lacey Food Bank (Lacey)	\$193,000
Lake Stevens Early Learning Library (Lake Stevens)	\$150,000
Lake WA Loop Trail Bicycle Safety Improvements (Kenmore)	\$200,000
Lakebay Marina Acquisition & Preservation (Lakebay)	\$100,000
Levee Repair (Starbuck)	\$50,000
Levee Repair (Waitsburg)	\$100,000
LGBTQ Senior Center (Seattle)	\$500,000
Lions Club Community Ctr. Generator (Lyle)	\$5,000
Longview Police Dept. New Office (Longview)	\$250,000
Lower Yakima River Restoration (Richland)	\$258,000
Magnuson Park Center for Excellence Building 2 (Seattle)	\$78,000
Mason Co./Shelton YMCA (Shelton)	\$750,000
Mini Mart City Park (Seattle)	\$200,000
Morrow Manor (Poulsbo)	\$250,000
Mount Zion Housing (Seattle)	\$250,000
Mukilteo Solar Panels (Mukilteo)	\$40,000
New Arcadia (Auburn)	\$100,000
New Beginnings House (Puyallup)	\$150,000
Non-motorized Bridge at Bothell Landing (Bothell)	\$155,000
Our Lady of Fatima Community Ctr. (Moses Lake)	\$128,000
Pataha Flour Mill Elevator (Pomeroy)	(\$40,000) <u>\$256,000</u>
Pete's Pool Ball Field Renovation (Enumclaw)	\$77,000
Pike Place Market Public Access (Seattle)	\$50,000
Point Wilson Lighthouse (Port Townsend)	\$60,000
Port Angeles Boys and Girls Club (Port Angeles)	\$400,000
Port of Quincy Intermodal Terminal Infrastructure (Quincy)	\$100,000
Port Susan Trail (Stanwood)	\$200,000
Puyallup Food Bank Facility Expansion (Puyallup)	\$217,000
Puyallup VFW Orting Civil War Medal of Honor Monument (Orting)	\$7,000

Ramstead Regional Park (Everson)	\$200,000
REACH Literacy Center (Lacey)	\$50,000
Redondo Fishing Pier (Des Moines)	\$350,000
Renewable Hydrogen Production Pilot (East Wenatchee).	\$250,000
Replacement Hospice House (Richland)	\$200,000
Restroom Renovation (Ilwaco)	\$35,000
Ridgefield Library Building Project (Ridgefield)	\$500,000
Roy Water Tower (Roy)	\$26,000
S. Kitsap HS NJROTC Equipment (Port Orchard)	\$24,000
Safety Driven Replacement (Lake Stevens)	\$125,000
Salvation Army Community Resource Center (Yakima)	\$200,000
Sargent Oyster House Restoration (Allyn)	\$10,000
Satsop Business Park (Elma)	\$155,000
School and Transit Connector Sidewalk (Kirkland)	\$120,000
School District & Comm Emergency Preparedness Center (Carbonado)	\$200,000
((Shelton Mason County YMCA (Shelton)	\$200,000))
Shore Aquatic Center Expansion (Port Angeles)	\$200,000
Sign Reinstallation at Maplewood Elementary (Puyallup)	\$5,000
Skagit Pump Station Modernization Design (Mount Vernon)	\$52,000
Sky Valley Emergency Generators (Sultan)	\$75,000
Sky Valley Teen Center (Sultan)	\$103,000
Sno Valley Kiosk (North Bend)	\$20,000
Snohomish Boys and Girls Club (Snohomish)	\$125,000
Snoqualmie Valley Shelter Service Resource (Snoqualmie)	\$200,000
South Yakima Conservation District Groundwater Mgmt (Yakima)	\$45,000
Spokane Sportsplex (Spokane)	\$200,000
Spokane Valley Museum (Spokane Valley)	\$70,000
Star Park Shelter (Ferndale)	\$180,000
Stevens Elementary Solar Panels (Seattle)	\$120,000
Sullivan Park Waterline Installation (Spokane Valley)	\$130,000
Thurston Boys and Girls Club (Lacey)	\$50,000
Trail Lighting - Cross Kirkland Corridor (Kirkland)	\$200,000
Transitions TLC Transitional Housing Renovations (Spokane)	\$100,000
Vashon Food Bank Site Relocation (Vashon)	\$36,000
Vashon Youth and Family Services (Vashon)	\$86,000
WA Poison Center Emergency Response to COVID-19 (Seattle)	\$124,000
Waikiki Springs Nature Preserve (Spokane)	\$1,548,000
Washington State Horse Park and Covered Arena (Ellensburg)	\$375,000
Wenatchee Valley Museum & Cultural Ctr. (Wenatchee)	\$283,000
West Biddle Lake Dam Restoration (Vancouver)	\$412,000
William Shore Pool (Port Angeles)	\$500,000
<u>Wishkah Road Flood Levee (Grays Harbor County)</u>	<u>\$186,000</u>

Yakima County Care Campus Conversion Project (Yakima) \$275,000
 Yelm Lions Club Cabin Renovation (Yelm) \$207,000

(8) It is the intent of the legislature that future applications for state funding for the ASUW Shell House be made through competitive grant programs.

(9) The Creative Districts program funded in this section shall be administered by the Washington state arts commission. The commission is authorized to use up to three percent of the funds to administer the program.

(10) Funds provided in this section for the Crosswalk Teen Shelter project are for preconstruction activities, including acquisition. Any remaining funds may be used for construction as long as the balance of nonstate funds needed to complete the project are firmly committed.

Appropriation:

State Building Construction Account—State ((~~\$29,970,000~~))
\$32,672,000
 Prior Biennia (Expenditures) \$0
 Future Biennia (Projected Costs) \$0
 TOTAL ((~~\$29,970,000~~))
\$32,672,000

Sec. 6009. 2020 c 356 s 1009 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

Seattle Vocational Institute (40000136)

It is the intent of the legislature that this funding be provided for the Seattle Vocational Institute no later than June 30, 2021, once the community preservation and development authority has selected board members and the title of the Seattle Vocational Institute building has been transferred to the board.

Appropriation:

State Building Construction Account—State ((~~\$1,300,000~~))
\$1,125,000
State Taxable Building Construction Account—State \$175,000
Subtotal Appropriation \$1,300,000
 Prior Biennia (Expenditures) \$0
 Future Biennia (Projected Costs) \$0
 TOTAL \$1,300,000

Sec. 6010. 2019 c 413 s 1023 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

2017-19 Building Communities Fund Grant (30000883)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1015, chapter 2, Laws of 2018, except that no funding may be directed to the Aging in PACE project.

Reappropriation:

State Building Construction Account—State ((~~\$18,500,000~~))
\$15,500,000
 Prior Biennia (Expenditures) \$12,400,000
 Future Biennia (Projected Costs) \$0
 TOTAL ((~~\$30,900,000~~))
\$27,900,000

Sec. 6011. 2019 c 413 s 1032 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF COMMERCE

2019-21 Building for the Arts Grant Program (40000039)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is subject to the provisions of RCW 43.63A.750.

(2) Except as directed otherwise prior to the effective date of this section, the department may not expend the appropriation in this section unless and until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by this appropriation. This requirement does not apply to projects where a share of the appropriation is for design costs only.

(3) The appropriation is provided solely for the following list of projects:

Seattle Theatre Group	\$310,000
Music Center of the Northwest	\$300,000
Seattle Symphony Orchestra	\$912,000
Broadway Center for the Performing Arts.....	\$586,000
Bainbridge Artisan Resource Network	\$1,057,000
Nordic Heritage Museum Foundation	\$2,000,000
Imagine Children's Museum	\$2,000,000
Seattle Opera	\$526,000
KidsQuest Children's Museum	\$816,000
((Central Stage Theatre of County Kitsap	\$964,000))
Roxy Bremerton Foundation	\$51,000
Port Angeles Waterfront Center.....	\$1,112,000
((Rehabilitating Fort Worden's Historic Warehouses	\$712,000))
Sea Mar Museum of Chicano/a Latino/a Culture	\$654,000

Appropriation:

State Building Construction Account—State	((\$12,000,000))
	<u>\$10,324,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$48,000,000
TOTAL	((\$60,000,000))
	<u>\$58,324,000</u>

Sec. 6012. 2019 c 413 s 1056 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF COMMERCE

Dental Capacity Grants (91001306)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the following list of projects:

Bethel Dental Clinic.....	\$500,000
Columbia County Dental.....	((\$250,000)) <u>\$353,000</u>
Skagit Valley College WDTEP	\$550,000
Vancouver Dental.....	\$175,000

Appropriation:

State Building Construction Account—State	((\$1,475,000))
	<u>\$1,578,000</u>

Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	<u>(\$1,475,000)</u>
	<u>\$1,578,000</u>

Sec. 6013. 2019 c 413 s 1058 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

Projects for Jobs & Economic Development (92000151)

The reappropriations in this section are subject to the following conditions and limitations:

(1) Except as provided in subsection (2) of this section, the reappropriations are subject to the provisions of section 1077, chapter 19, Laws of 2013 2nd sp. sess.

(2) \$1,000,000 of the reappropriation, not to exceed the amount remaining from the original appropriation, originally for the South Kirkland TOD/Cross Kirkland Corridor, may be used for the pedestrian crossing project at Kirkland Avenue and Lake Street.

Reappropriation:

Public Facility Construction Loan Revolving Account—State	<u>(\$3,000,000)</u>
	<u>\$2,528,000</u>
State Building Construction Account—State	\$1,000,000
Subtotal Reappropriation	<u>(\$4,000,000)</u>
	<u>\$3,528,000</u>
Prior Biennia (Expenditures)	\$33,109,000
Future Biennia (Projected Costs)	\$0
TOTAL	<u>(\$37,109,000)</u>
	<u>\$36,637,000</u>

Sec. 6014. 2019 c 413 s 1060 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

Projects that Strengthen Communities & Quality of Life (92000230)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 6006, chapter 3, Laws of 2015 3rd sp. sess.

Reappropriation:

State Building Construction Account—State	\$1,400,000
(Appropriation:	
Model Toxics Control Capital Account—State	\$40,000)
Prior Biennia (Expenditures)	\$30,688,000
Future Biennia (Projected Costs)	\$0
TOTAL	<u>(\$32,128,000)</u>
	<u>\$32,088,000</u>

Sec. 6015. 2019 c 413 s 1012 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

Energy Efficiency and Solar Grants (30000835)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1035, chapter 3, Laws of 2015 3rd sp. sess.

Reappropriation:

State Building Construction Account—State	.....((\$2,000,000))	
		<u>\$597,000</u>
Prior Biennia (Expenditures)	.....	\$23,000,000
Future Biennia (Projected Costs)	.....	\$0
TOTAL	.....((\$25,000,000))	<u>\$23,597,000</u>

Sec. 6016. 2019 c 413 s 1064 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

Behavioral Rehabilitation Services Capacity Grants (92000611)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1015, chapter 298, Laws of 2018.

Reappropriation:

State Building Construction Account—State	.....((\$2,000,000))	
		<u>\$1,719,000</u>
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	.....	\$0
TOTAL	.....((\$2,000,000))	<u>\$1,719,000</u>

Sec. 6017. 2019 c 413 s 1066 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

Palouse to Cascades Trail Facilitation (92000833)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely for the department of commerce to contract for facilitation and mediation of ownership, development, and use conflicts along the Palouse to Cascades trail in Adams and Whitman counties. The contractor shall convene a process that will make recommendations to the legislature by January 15, 2020. The parties to the facilitation shall include, but are not limited to: The state parks and recreation commission, the farm bureau, the department of natural resources, recreational trail user groups, local governments adjacent to the trail, and landowners adjacent to the trail.

(2) The recreation and conservation office shall not release funding for the following project on Washington wildlife and recreation program LEAP capital document No. 2019-5H: Palouse to Cascades Connection Malden and Rosalia, until July 1, 2020.

Appropriation:

State Building Construction Account—State	.....((\$150,000))	
		<u>\$134,000</u>
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	.....	\$0

TOTAL ((~~\$150,000~~))
\$134,000

Sec. 6018. 2020 c 356 s 1022 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF COMMERCE
Enhanced Shelter Capacity Grants (92000939)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$7,818,000 of the appropriation in this section is provided solely for a homeless shelter grant program for the following list of shelter projects:

- Auburn Resource Center (Auburn) \$1,500,000
- Community House (Longview) \$206,000
- ~~((Crosswalk Teen Shelter (Spokane) \$1,500,000))~~
- Harbor Hope Center Home for Girls (Gig Harbor) \$294,000
- Noah's Ark Homeless Shelter (Wapato) \$100,000
- Positive Adolescent Dev (PAD) Emergency Housing (Bellingham) \$206,000
- Rod's House Mixed Use Facility (Yakima) \$2,000,000
- ROOTS Young Adult Shelter (Seattle) \$1,500,000
- Snoqualmie Valley Resource Center (Snoqualmie) \$206,000
- St. Vincent de Paul Cold Weather Shelter (Renton) \$206,000
- YMCA Oasis Teen Shelter (Mount Vernon) \$100,000

(2) In contracts for grants authorized under this section, the department of commerce must follow the guidelines and compliance requirements in the Housing Trust Fund program, including provisions that require 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 must 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 on the date most close in time to the date of authorization of the grant.

Appropriation:

- State Building Construction Account—State ((~~\$7,818,000~~))
\$6,318,000
- Prior Biennia (Expenditures) \$0
- Future Biennia (Projected Costs) \$0
- TOTAL ((~~\$7,818,000~~))
\$6,318,000

Sec. 6019. 2019 c 413 s 1061 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF COMMERCE
Community Behavioral Health Beds - Acute & Residential (92000344)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 1007, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

- State Building Construction Account—State ((~~\$5,000,000~~))

	<u>\$4,515,000</u>
Prior Biennia (Expenditures)	\$39,399,000
Future Biennia (Projected Costs)	\$0
TOTAL	<u>(\$44,399,000)</u>
	<u>\$43,914,000</u>

Sec. 6020. 2019 c 413 s 1074 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Transportation Building Preservation (30000777)

Reappropriation:

Capitol Building Construction Account—State	<u>(\$3,925,000)</u>
	<u>\$1,725,000</u>
Prior Biennia (Expenditures)	\$57,000
Future Biennia (Projected Costs)	\$0
TOTAL	<u>(\$3,982,000)</u>
	<u>\$1,782,000</u>

Sec. 6021. 2019 c 413 s 1076 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Legislative Building Systems Rehabilitation (30000791)

Reappropriation:

Capitol Building Construction Account—State	<u>(\$150,000)</u>
	<u>\$33,000</u>
Prior Biennia (Expenditures)	\$843,000
Future Biennia (Projected Costs)	\$0
TOTAL	<u>(\$993,000)</u>
	<u>\$876,000</u>

Sec. 6022. 2019 c 413 s 1079 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Building Envelope Repairs (30000829)

Reappropriation:

Capitol Building Construction Account—State	<u>(\$2,537,000)</u>
	<u>\$2,010,000</u>
State Building Construction Account—State	\$2,167,000
Subtotal Reappropriation	<u>(\$4,704,000)</u>
	<u>\$4,177,000</u>
Prior Biennia (Expenditures)	\$518,000
Future Biennia (Projected Costs)	\$0
TOTAL	<u>(\$5,222,000)</u>
	<u>\$4,695,000</u>

Sec. 6023. 2019 c 413 s 1077 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Campus Physical Security & Safety Improvements (30000812)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,508,000 ((is) of the capitol building construction account—state appropriation, \$1,000,000 of the Thurston county capital facilities account—state appropriation, and \$1,018,000 of the state building construction account—state appropriation are provided solely for the security improvements of

distributed antenna system in the natural resource building, columbia, plaza, and department of transportation parking garages.

(2) The reappropriations are subject to the provisions of section 1025, chapter 298, Laws of 2018.

(3) The temporary security fencing on the capital campus must be removed by May 31, 2021, unless the Washington state patrol notifies the legislative leaders by May 15, 2021, and the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives concur that the Washington state patrol security assessment determines that the fence is unable to be removed.

Reappropriation:

State Building Construction Account—State	\$1,625,000
Thurston County Capital Facilities Account—State	\$710,000
Subtotal Reappropriation	\$2,335,000

Appropriation:

Capitol Building Construction Account—State	\$1,508,000
<u>State Building Construction Account—State</u>	<u>\$1,018,000</u>
<u>Thurston County Capital Facilities Account—State</u>	<u>\$1,000,000</u>
<u>Subtotal Appropriation</u>	<u>\$3,526,000</u>
Prior Biennia (Expenditures)	\$415,000
Future Biennia (Projected Costs)	\$0
TOTAL	<u>(\$4,258,000)</u>
	<u>\$6,276,000</u>

Sec. 6024. 2020 c 356 s 1027 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Legislative Campus Modernization (92000020)

(1) The reappropriation in this section is subject to the following conditions and limitations: The final predesign for legislative campus modernization must be submitted to the office of financial management and legislative fiscal committees by ~~((September 1, 2020))~~ February 5, 2020. The department must consult with the senate facilities and operations committee or their designee(s) and the house of representatives executive rules committee or their designee(s) during the development of and prior to finalizing and submitting the final predesign ~~((on September 1, 2020))~~.

(a) With respect to the Irv Newhouse building replacement on opportunity site six, the final predesign must include demolition of buildings on opportunity site six ~~((with the exception of the visitor center))~~. The predesign must include details and costs for temporary office space on Capitol Campus, for which modular space is an option, to be used at least during the construction of the building for Irv Newhouse occupants. The predesign must also consider an additional floor for the Irv Newhouse building, and this component of predesign must not delay nor impact the final predesign deliverable date. The predesign must assume the following:

(i) Necessary program space required to support senate offices and support functions;

(ii) A building facade similar to ((the American neoclassical style of existing legislative buildings on Capitol Campus)) the American neoclassical style with a base, shaft, and capitol expression focus with some relief expressed

in modern construction methods to include adding more detailing and depth to the exterior so that it will fit with existing legislative buildings on west capitol campus, like the John Cherberg building;

(iii) Member offices of similar size as member offices in the John A. Cherberg building;

(iv) Design and construction of a high performance building that meets net-zero-ready energy standards, with an energy use intensity of no greater than thirty-five;

(v) Building construction that ~~((must))~~ may be procured using a performance-based contracting method, such as design-build, and ~~((must))~~ may include an energy performance guarantee comparing actual performance data with the energy design target;

(vi) Temporary office space on Capitol Campus, for which modular space is an option, to be used during the construction of the building. Maximizing efficient use of modular space with Pritchard renovation or replacement must be considered;

(vii) Demolition of the buildings ~~((, not including the visitor center,))~~ located on opportunity site six ~~((Demolition costs must not exceed six hundred thousand dollars));~~ and

(viii) At least bimonthly consultation with the senate facilities and operations committee or their designee(s).

(b) With respect to the Pritchard building replacement or renovation, and renovation of the third and fourth floors of the John L. O'Brien building, the predesign must assume the following:

(i) The necessary program space required to support house of representatives offices and support functions;

(ii) Building construction that ~~((must))~~ may be procured using a performance-based contracting method, such as design-build, and ~~((must))~~ may include an energy performance guarantee comparing actual performance data with the energy design target;

(iii) Design and construction that meets net-zero-ready energy standards, with an energy use intensity of no greater than thirty-five;

(iv) The detail and cost of temporary office space on Capitol Campus, for which modular space is an option, to be used during the construction of the buildings for state employed occupants of any impacted building. Maximizing efficient use of modular space with the Newhouse replacement must be considered; and

(v) At least bimonthly consultation with the leadership of the house of representatives, the chief clerk of the house of representatives, or their designee(s), and tenants of any impacted buildings.

(c) The legislative campus modernization predesign must assume:

(i) Preference for the completion of construction of the Irv Newhouse building before the renovation or replacement of the Pritchard building and before the renovation of the third and fourth floors of the John L. O'Brien building;

(ii) The amount of parking on the capitol campus ~~((remains the same or increases))~~ may not result in a loss greater than 60 parking spots as a result of the legislative campus modernization construction projects; and

(iii) Options for relocation of the occupants of impacted buildings that are not employed by the state to alternative locations(~~(, including, but not limited to, the visitor center)~~).

(d) The legislative campus modernization predesign must include an analysis of comparative costs and benefits of locations for needed space, to include the following considerations:

(i) An additional floor added to the Irv Newhouse building replacement, and this component of design must not delay nor impact the final predesign deliverable date;

(ii) Additional space added to the Pritchard replacement or renovation; and

~~(iii) ((The impact to options to maintain, or increase, the amount of parking on Capitol Campus; and~~

~~(iv)))~~ Space needed for legislative support agencies.

(e) The final predesign must include an analysis of the relative costs and benefits of designing and constructing the projects authorized under this section under a single contract or individual subproject contracts, based on an evaluation of, at least, the following criteria:

(i) The interdependency and interaction of the design and construction phases of the subprojects;

(ii) Subproject phasing and sequencing, including the timing and utilization of modular temporary office space on Capitol Campus during the construction phases;

(iii) Potential cost efficiencies under each subproject;

(iv) Provide an evaluation for the most efficient and effective contracting method for subproject delivery, including design-bid-build, general contractor/construction manager, and design-build for each subproject; and

(v) Other collateral impacts.

(f) The department must have a check-in meeting by October 1, 2020, with the administrative office of the senate, the administrative office of the house of representatives, and the legislative capital budget leads. This check-in meeting must be after the predesign is submitted to the office of financial management and legislative fiscal committees.

(2) The appropriations in this section are subject to the following conditions and limitations: The new appropriations must be coded and tracked as separate discreet subprojects in the agency financial reporting system.

(a) \$3,370,000 of the appropriation is provided solely for the Irv Newhouse building replacement, and the appropriation in this subsection (2)(a) is provided solely for design and construction of the Irv Newhouse building replacement for the senate, located on opportunity site six. The design must assume:

(i) Necessary program space required to support senate offices and support functions;

(ii) A building facade similar to ~~((the American neoclassical style of existing legislative buildings on Capitol Campus))~~ the American neoclassical style with a base, shaft, and capitol expression focus with some relief expressed in modern construction methods to include adding more detailing and depth to the exterior so that it will fit with existing legislative buildings on west capitol campus, like the John Cherberg building;

(iii) Member offices of similar size as member offices in the John A. Cherberg building;

(iv) Design and construction of a high performance building that meets net-zero-ready energy standards, with an energy use intensity of no greater than thirty-five;

(v) Building construction that ~~((must))~~ may be procured using a performance-based contracting method, such as design-build, and ~~((must))~~ may include an energy performance guarantee comparing actual performance data with the energy design target;

(vi) Temporary office space on Capitol Campus, for which modular space is an option, to be used during the construction of the building. Maximizing efficient use of modular space with Pritchard renovation must be considered;

(vii) Demolition of the buildings ~~((, not including the visitor center,))~~ located on opportunity site six ~~((Demolition costs must not exceed six hundred thousand dollars));~~

(viii) At least bimonthly consultation with the leadership of the senate, or their designee(s), and Irv Newhouse tenants; and

(ix) ~~((Procurement of the design solution))~~ Design contract selection will be completed by ~~((February))~~ September 1, 2021, for the Irv Newhouse building replacement.

(b) \$6,530,000 of the appropriation is provided solely for the Pritchard building replacement or renovation ~~((, and the renovation of the third and fourth floors of the John L. O'Brien building))~~. The appropriation in this subsection is provided solely for the design and construction and assumes:

(i) The necessary program space required to support house of representatives offices and support functions;

(ii) Additional office space necessary to offset house of representatives members and staff office space that may be eliminated in the renovation of the third and fourth floors of the John L. O'Brien building;

(iii) Design and construction of a high performance building that meets net-zero-ready energy standards, with an energy use intensity of no greater than thirty-five;

(iv) Building construction that ~~((must))~~ may be procured using a performance-based contracting method, such as design-build, and ~~((must))~~ may include an energy performance guarantee comparing actual performance data with the energy design target;

(v) Temporary office space on Capitol Campus, for which modular space is an option, to be used during the construction of the building. Maximizing efficient use of modular space with Newhouse replacement must be considered; and

(vi) At least bimonthly consultation with the leadership of the house of representatives, the chief clerk of the house of representatives, or their designee(s), and tenants of any impacted building.

(c) ~~(((\$100,000))~~ \$146,000 of the appropriation is provided solely for the completion of predesign efforts as described in subsection (1) of this section.

(3) The department may sell by auction the Ayers and Carlyon houses, known as the press houses, separate and apart from the underlying land, subject to the following conditions:

(a) The purchaser, at its sole cost and expense, must remove the houses by December 31, 2021;

(b) The state is not responsible for any costs or expenses associated with the sale, removal, or relocation of the buildings from opportunity site six; and

(c) Any sale proceeds must be deposited into the Thurston county capital facilities account.

(4) Implementation of subsection (3) of this section is not intended to delay the design and construction of any of the subprojects included in the legislative campus modernization project.

Reappropriation:

State Building Construction Account—State\$256,000

Appropriation:

State Building Construction Account—State((~~\$10,000,000~~))

\$10,046,000

Prior Biennia (Expenditures).....\$194,000

Future Biennia (Projected Costs).....\$89,000,000

TOTAL.....((~~\$99,450,000~~))

\$99,496,000

Sec. 6025. 2019 c 413 s 4002 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL

FTA Burn Building - Structural Repairs (30000256)

Appropriation:

Fire Service Training Account—State.....((~~\$750,000~~))

\$550,000

Prior Biennia (Expenditures).....\$0

Future Biennia (Projected Costs).....\$0

TOTAL.....((~~\$750,000~~))

\$550,000

Sec. 6026. 2019 c 413 s 4004 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL

High Throughput DNA Laboratory (40000002)

The appropriation in this section is subject to the following conditions and limitations: ((~~\$277,000~~)) \$247,000 is provided solely for renovations to the crime lab.

Appropriation:

State Building Construction Account—State((~~\$277,000~~))

\$247,000

Prior Biennia (Expenditures).....\$0

Future Biennia (Projected Costs).....\$0

TOTAL.....((~~\$277,000~~))

\$247,000

Sec. 6027. 2019 c 413 s 1097 (uncodified) is amended to read as follows:

FOR THE MILITARY DEPARTMENT

Minor Works Program 2017-19 Biennium (30000812)

Reappropriation:

General Fund—Federal.....((~~\$20,395,000~~))

\$1,395,000

Military Department Capital Account—State.....\$75,000

State Building Construction Account—State((~~\$1,814,000~~))

	<u>\$1,614,000</u>
Subtotal Reappropriation	((\$22,284,000))
	<u>\$3,084,000</u>
Prior Biennia (Expenditures)	\$2,413,000
Future Biennia (Projected Costs)	\$0
TOTAL	((\$24,697,000))
	<u>\$5,497,000</u>

Sec. 6028. 2019 c 413 s 1098 (uncodified) is amended to read as follows:

FOR THE MILITARY DEPARTMENT

Centralia Readiness Center (30000818)

Reappropriation:

General Fund—Federal	\$2,289,000
State Building Construction Account—State	\$2,287,000
Subtotal Reappropriation	\$4,576,000

Appropriation:

General Fund—Federal	((\$2,000,000))
	<u>\$3,200,000</u>
Prior Biennia (Expenditures)	\$174,000
Future Biennia (Projected Costs)	\$0
TOTAL	((\$6,750,000))
	<u>\$7,950,000</u>

Sec. 6029. 2019 c 413 s 2088 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

WCC: Replace Roofs (30000654)

Reappropriation:

State Building Construction Account—State	\$675,000
---	-----------

Appropriation:

State Building Construction Account—State	((\$4,540,000))
	<u>\$3,040,000</u>
Prior Biennia (Expenditures)	\$1,595,000
Future Biennia (Projected Costs)	\$0
TOTAL	((\$6,810,000))
	<u>\$5,310,000</u>

Sec. 6030. 2019 c 413 s 2089 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

CBCC: Replace Fire Alarm System (30000748)

Reappropriation:

State Building Construction Account—State	\$180,000
---	-----------

Appropriation:

State Building Construction Account—State	((\$5,284,000))
	<u>\$4,284,000</u>
Prior Biennia (Expenditures)	\$175,000
Future Biennia (Projected Costs)	\$0
TOTAL	((\$5,639,000))
	<u>\$4,639,000</u>

Sec. 6031. 2019 c 413 s 3020 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

ASARCO Cleanup (30000334)

~~((The reappropriation in this section is subject to the following conditions and limitations: \$400,000 of the reappropriation is provided solely for the city of Tacoma to reimburse for clean up and remediation of the former Ruston Way tunnel, including costs that occurred prior to June 30, 2019.))~~

Reappropriation:

Cleanup Settlement Account—State	(\$2,095,000))
	<u>\$1,695,000</u>
Prior Biennia (Expenditures)	\$34,565,000
Future Biennia (Projected Costs)	\$0
TOTAL	(\$36,660,000))
	<u>\$36,260,000</u>

Sec. 6032. 2019 c 413 s 3091 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

2019-21 Protect Investments in Cleanup Remedies (40000194)

The appropriation in this section is subject to the following conditions and limitations: ~~(\$2,260,000)~~ \$827,000 of the model toxics control capital account appropriation is provided solely for reimbursing the Lakewood water district for costs for the Ponders drinking water treatment system, including costs incurred prior to July 1, 2019.

Appropriation:

Model Toxics Control Capital Account—State	(\$9,637,000))
	<u>\$8,204,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$40,000,000
TOTAL	(\$49,637,000))
	<u>\$48,204,000</u>

Sec. 6033. 2020 c 356 s 3025 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Clean Up Toxics Sites - Puget Sound (91000032)

Appropriation:

Model Toxics Control Capital Account—State	(\$179,000))
	<u>\$38,000</u>
Prior Biennia (Expenditures)	\$9,091,000
Future Biennia (Projected Costs)	\$0
TOTAL	(\$9,270,000))
	<u>\$9,129,000</u>

Sec. 6034. 2019 c 413 s 3278 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

Pasco Local Improvement District (40000019)

Appropriation:

State Building Construction Account—State	(\$4,000,000))
	<u>\$2,894,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	(\$4,000,000))
	<u>\$2,894,000</u>

Sec. 6035. 2019 c 413 s 3301 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF NATURAL RESOURCES
Fircrest Property (91000103)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the following purposes:

(1) The department must, in consultation with the office of financial management and the department of social and health services, develop recommendations for future use of underutilized portions of the Fircrest School campus, including the southeast and southwest corners. Recommendations must include options for developing affordable housing and public open space on underutilized portions of the Fircrest School campus and any specific statutory language necessary to implement these recommendations. Recommendations must consider: (a) Current zoning restrictions; (b) current use; (c) current ownership; (d) current revenue generating capacity; (e) any specific statutory language necessary to implement these recommendations; and (f) any legal constraints.

(2) The department must submit a report to the appropriate committees of the legislature by December 31, 2019.

Appropriation:

Charitable, Educational, Penal, Reformatory, Institutional Account—State	((\$250,000))
	<u>\$8,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	((\$250,000))
	<u>\$8,000</u>

Sec. 6036. 2019 c 413 s 3217 (uncodified) is amended to read as follows:
FOR THE RECREATION AND CONSERVATION OFFICE

Upper Quinault River Restoration ((~~Phase 3 (WCR) (910000958)~~)) Project (91000958)

Appropriation:

State Building Construction Account—State	\$2,000,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
TOTAL	\$2,000,000

Sec. 6037. 2019 c 413 s 3235 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF FISH AND WILDLIFE

Migratory Waterfowl Habitat (20082045)

Reappropriation:

State Wildlife Account—State	((\$500,000))
	<u>\$285,000</u>
Appropriation:	
State Wildlife Account—State	\$600,000
Prior Biennia (Expenditures)	\$1,388,000
Future Biennia (Projected Costs)	\$1,800,000
TOTAL	((\$4,288,000))
	<u>\$4,073,000</u>

Sec. 6038. 2020 c 356 s 3062 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

(1) Nothing in this section alters the obligation set forth in the permanent injunction, including the compliance deadline, entered on March 29, 2013, in *United States v. Washington*, sub-proceeding 01-1 (Culverts), or the guidelines for compliance within the specified timeline with the permanent injunction as developed by the state agencies during the implementation process.

(2) Nothing in this section creates an obligation on the part of the state to provide funding for corrections for nonstate-owned culverts. Nothing in this section precludes the state from providing funding for corrections for nonstate-owned culverts.

(3) In order to provide recommendations, the Brian Abbott fish barrier removal board must develop a comprehensive statewide culvert remediation plan that works in conjunction with the state approach and that fully satisfies the requirements of the *United States v. Washington* permanent injunction and makes both local and state funding recommendations for additional nonstate barrier corrections across state culvert correction programs that maximize the fisheries habitat gain and other benefits to prey available for southern resident killer whale and salmon recovery.

(4) The comprehensive statewide culvert remediation plan must be consistent with the principles and requirements of the *United States v. Washington* permanent injunction and RCW 77.95.180 and must achieve coordinated investment strategy goals of permanent injunction compliance and the following additional resource benefits. The Brian Abbott fish barrier removal board chair, representing the board and the appropriate department of fish and wildlife executive management, shall consult with tribes to develop a watershed approach. Provided it is consistent with the *United States v. Washington* permanent injunction, prioritization of barrier corrections must be developed on a watershed basis and must maximize the following resource priorities:

(a) Stocks that are listed as threatened or endangered under the federal endangered species act;

(b) Stocks that contribute to protection and recovery of southern resident orca whales;

(c) Critical stocks of anadromous fish that limit or prevent harvest of anadromous fish, as identified in the Pacific salmon treaty; and

(d) Weak stocks of anadromous fish that limit or prevent harvest of anadromous fish, as determined in North of Cape Falcon process.

(5) The comprehensive statewide culvert remediation plan must include recommendations on methods and procedures for state agencies and local governments to complete and maintain accurate barrier inventories. This plan must also allow for efficient bundling of projects to minimize disruption to the public due to construction as well as adjustments in response to obstacles and opportunities encountered during delivery.

(6) The Brian Abbott fish barrier removal board must also:

(a) Provide to the office of financial management and the fiscal committees of the legislature its recommendation as to statutory or policy changes, or budget needs for the board or state capital budget programs, for better implementation and coordination among the state's culvert correction programs by ((~~January 15, 2024~~)) June 30, 2021; and

(b) Develop a plan to seek and maximize the chances of success of significant federal investment in the comprehensive statewide culvert remediation plan.

(7) It is the intent of the legislature that, in developing future budgets, state agencies administering state culvert correction programs will recommend, to the maximum extent possible, funding in their culvert correction programs for correction of barriers that are part of the comprehensive statewide culvert remediation plan developed by the Brian Abbott fish barrier removal board under this section.

(8) By November 1, 2020, and March 1, 2021, the Brian Abbott fish barrier removal board and the department of transportation must provide updates on the development of the statewide culvert remediation plan to the office of financial management and the legislative fiscal committees. The first update must include a project timeline and plan to ensure that all agencies with culvert correction programs are involved in the creation of the comprehensive plan.

(9) Prior to presenting the comprehensive statewide culvert remediation plan, the Brian Abbott fish barrier removal board must present the status of the plan to the annual Washington state and Western Washington treaty tribes fish passage barrier repair progress and coordination meeting. The board must submit the comprehensive statewide culvert remediation plan and the process by which it will be adaptively managed over time to the governor and the legislative fiscal committees by (~~January 15, 2021~~) June 30, 2021.

Sec. 6039. 2019 c 413 s 5011 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
2017-19 School Construction Assistance Program (40000003)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations are subject to the provisions of section 5003, chapter 298, Laws of 2018.

Reappropriation:

State Building Construction Account—State	(\$475,282,000)
	<u>\$493,020,000</u>
Common School Construction Account—State	(\$255,948,000)
	<u>\$238,210,000</u>
Subtotal Reappropriation	\$731,230,000
Prior Biennia (Expenditures)	\$217,520,000
Future Biennia (Projected Costs)	\$0
TOTAL	\$948,750,000

Sec. 6040. 2020 c 356 s 5002 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
2019-21 School Construction Assistance Program - Maintenance Level (40000013)

The appropriations in this section are subject to the following conditions and limitations: \$1,005,000 of the common school construction account—state appropriation is provided solely for study and survey grants and for completing inventory and building condition assessments for public school districts every six years.

Appropriation:

State Building Construction Account—State . . . . .	..((\$851,208,000))
	<u>\$833,470,000</u>
Common School Construction Account—State	\$185,908,000
Common School Construction Account—Federal	\$3,840,000
Subtotal Appropriation . . . . .	..((\$1,040,956,000))
	<u>\$1,023,218,000</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$4,870,192,000
TOTAL . . . . .	..((\$5,911,148,000))
	<u>\$5,893,410,000</u>

Sec. 6041. 2019 c 413 s 5020 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION
STEM Pilot Program (91000402)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is subject to the provisions of section 5005, chapter 35, Laws of 2016 sp. sess.

Reappropriation:

State Building Construction Account—State . . . . .	..((\$3,046,000))
	<u>\$2,956,000</u>
Prior Biennia (Expenditures)	\$9,454,000
Future Biennia (Projected Costs)	\$0
TOTAL . . . . .	..((\$12,500,000))
	<u>\$12,410,000</u>

Sec. 6042. 2020 c 356 s 5011 (uncodified) is amended to read as follows:
FOR THE UNIVERSITY OF WASHINGTON
Behavioral Health Teaching Facility (40000038)

The appropriation in this section is subject to the following conditions and limitations:

(1)(a) The appropriation is provided solely for implementation of Engrossed Second Substitute House Bill No. 1593 (behavioral health teaching facility). The appropriation provided may be used for predesign, siting, design costs, enabling projects, ~~((and))~~ early work packages, and construction, equipment, furnishings, and completion. ~~((If the bill is not enacted by June 30, 2019, the amount provided in this section shall lapse.))~~

(b) The university must submit the predesign to the appropriate legislative committees by February 1, 2020.

(2) The behavioral health teaching facility must provide a minimum of ~~((fifty))~~ 75 long-term civil commitment beds, ~~((fifty geriatric/voluntary))~~ 25 geriatric and adult psychiatric beds, and fifty licensed medical/surgery beds, ~~((with the capacity))~~ available to treat medical and surgical problems for patients ~~((with))~~ who also have a psychiatric ~~((diagnoses))~~ diagnosis and/or substance use ~~((disorders))~~ disorder diagnosis. The University should maximize the use of these medical/surgery beds for patients with psychiatric diagnoses or substance use disorders to the extent practicable. The project construction must also include construction of a 24/7 telehealth consultation program within the facility.

Appropriation:

State Building Construction Account—State	\$33,250,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$191,250,000
TOTAL	\$224,500,000

Sec. 6043. 2019 c 413 s 5047 (uncodified) is amended to read as follows:

FOR THE UNIVERSITY OF WASHINGTON

Behavioral Health Institute at Harborview Medical Center (~~((91000025))~~)
(91000025)

Appropriation:

State Building Construction Account—State	(((\$500,000))
	<u>\$469,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL	(((\$500,000))
	<u>\$469,000</u>

NEW SECTION. Sec. 6044. The following acts or parts of acts are each repealed:

- (1) 2019 c 413 s 1004 (uncodified);
- (2) 2019 c 413 s 1107 (uncodified);
- (3) 2019 c 413 s 1108 (uncodified);
- (4) 2019 c 413 s 1109 (uncodified); and
- (5) 2019 c 413 s 2034 (uncodified).

PART 7

MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 7001. RCW 43.88.031 requires the disclosure of the estimated debt service costs associated with new capital bond appropriations. The estimated debt service costs for the appropriations contained in this act are \$46,768,901 for the 2021-2023 biennium, \$314,662,796 for the 2023-2025 biennium, and \$447,088,148 for the 2025-2027 biennium.

NEW SECTION. Sec. 7002. ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS. (1) The following agencies may enter into financial contracts, paid from any funds of an agency, appropriated or nonappropriated, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements or financial contracts using certificates of participation. Expenditures made by an agency for one of the indicated purposes before the issue date of the authorized financial contract and any certificates of participation therein are intended to be reimbursed from proceeds of the financial contract and any certificates of participation therein to the extent provided in the agency's financing plan approved by the state finance committee.

(2) Those noninstructional facilities of higher education institutions authorized in this section to enter into financial contracts are not eligible for state funded maintenance and operations. Instructional space that is available for regularly scheduled classes for academic transfer, basic skills, and workforce training programs may be eligible for state funded maintenance and operations.

(3) Secretary of state: Enter into a financing contract for up to \$119,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a new library-archives building.

(4) Washington state patrol: Enter into a financing contract for up to \$7,706,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a burn building for live fire training.

(5) Department of social and health services: Enter into a financing contract for up to \$115,700,000 plus costs and financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a nursing facility on the fircrest residential habilitation center campus. The department may contract to lease develop or lease purchase the facility. Before entering into a contract, the department must consult with the office of financial management and the office of the state treasurer. Should the department of social and health services choose to use a financing contract that does not provide for the issuance of certificates of participation, the financing contract shall be subject to approval by the state finance committee as required by RCW 39.94.010. In approving a financing contract not providing for the use of certificates of participation, the state finance committee should be reasonably certain that the contract is excluded from the computation of indebtedness, particularly that the contract is not backed by the full faith and credit of the state and the legislature is expressly not obligated to appropriate funds to make payments. For purposes of this subsection, "financing contract" includes but is not limited to a certificate of participation and tax exempt financing similar to that authorized in RCW 47.79.140.

(6) Community and technical colleges:

(a) Enter into a financing contract on behalf of Grays Harbor College for up to \$3,200,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a student services and instructional building.

(b) Enter into a financing contract on behalf of Shoreline Community College for up to \$3,128,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an allied health, science, and manufacturing replacement building.

(c) Enter into a financing contract on behalf of South Puget Sound Community College for up to \$5,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to renovate a health education building.

(d) Enter into a financing contract on behalf of Bates Technical College for up to \$1,350,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase land and facilities.

(7) The department of ecology: Submit a financing contract proposal to fully fund the Lacey headquarters parking garage preservation project, including financing expenses and required reserves pursuant to chapter 39.94 RCW, in the department's 2022 supplemental capital budget request.

NEW SECTION. Sec. 7003. (1) To ensure that major construction projects are carried out in accordance with legislative and executive intent, agencies must complete a predesign for state construction projects with a total anticipated cost in excess of \$5,000,000, or \$10,000,000 for higher education institutions. "Total anticipated cost" means the sum of the anticipated cost of the predesign, design, and construction phases of the project.

(2) Appropriations for design may not be expended or encumbered until the office of financial management has reviewed and approved the agency's predesign.

(3) The predesign must explore at least three project alternatives. These alternatives must be both distinctly different and viable solutions to the issue being addressed. The chosen alternative should be the most reasonable and cost-effective solution. The predesign document must include, but not be limited to, program, site, and cost analysis, and an analysis of the life-cycle costs of the alternatives explored, in accordance with the predesign manual adopted by the office of financial management.

(4) The office of financial management may make an exception to the predesign requirements in this section after notifying the legislative fiscal committees and waiting ten days for comment by the legislature regarding the proposed exception.

(5) If House Bill No. 1023 (predesign) is enacted by June 30, 2021 this section is null and void.

NEW SECTION. Sec. 7004. (1) To ensure that major construction projects are carried out in accordance with legislative and executive intent, agencies must complete a predesign for state construction projects with a total anticipated cost in excess of \$10,000,000. For purposes of this section, "total anticipated cost" means the sum of the anticipated cost of the predesign, design, and construction phases of the project.

(2) Appropriations for design may not be expended or encumbered until the office of financial management has reviewed and approved the agency's predesign.

(3) The predesign must explore at least three project alternatives. These alternatives must be both distinctly different and viable solutions to the issue being addressed. The chosen alternative should be the most reasonable and cost-effective solution. The predesign document must include, but not be limited to, program, site, and cost analysis, and an analysis of the life-cycle costs of the alternatives explored, in accordance with the predesign manual adopted by the office of financial management.

(4) For projects exceeding the \$10,000,000 predesign threshold established in this section, the office of financial management may make an exception to some or all of the predesign requirements in this section. The office of financial management shall report any exception to the fiscal committees of the legislature:

(a) A description of the major capital project for which the predesign waiver is made;

(b) An explanation of the reason for the waiver; and

(c) A rough order of magnitude cost estimate for the project's design and construction.

(5) In deliberations related to submitting an exception under this section, the office of financial management shall consider the following factors:

(a) Whether there is any determination to be made regarding the site of the project;

(b) Whether there is any determination to be made regarding whether the project will involve renovation, new construction, or both;

(c) Whether, within six years of submitting the request for funding, the agency has completed, or initiated the construction of, a substantially similar project;

(d) Whether there is any anticipated change to the project's program or the services to be delivered at the facility;

(e) Whether the requesting agency indicates that the project may not require some or all of the predesign requirements in this section due to a lack of complexity; and

(f) Whether any other factors related to project complexity or risk, as determined by the office of financial management, could reduce the need for, or scope of, a predesign.

(6) If under this section, some or all predesign requirements are waived, the office of financial management may instead propose a professional project cost estimate instead of a request for predesign funding.

(7) If House Bill No. 1023 (predesign) is not enacted by June 30, 2021, this section is null and void.

NEW SECTION. Sec. 7005. (1) The legislature finds that use of life-cycle cost analysis will aid public entities, architects, engineers, and contractors in making design and construction decisions that positively impact both the initial construction cost and the ongoing operating and maintenance cost of a project. To ensure that the total cost of a project is accounted for and the most reasonable and cost efficient design is used, agencies shall develop life-cycle costs for any construction project over \$10,000,000. The life-cycle costs must represent the present value sum of capital costs, installation costs, operating costs, and maintenance costs over the life expectancy of the project. The legislature further finds the most effective approach to the life-cycle cost analysis is to integrate it into the early part of the design process.

(2) Agencies must develop a minimum of three project alternatives for use in the life-cycle cost analysis. These alternatives must be both distinctly different and viable solutions to the issue being addressed. Agencies must choose the most reasonable and cost-effective solution, as supported by the life-cycle cost analysis. A brief description of each project alternative and why it was chosen must be included in the life-cycle cost analysis section of the predesign.

(3) The office of financial management shall: (a) Make available a life-cycle cost model to be used for analysis; (b) in consultation with the department of enterprise services, provide assistance in using the life-cycle cost model; and (c) update the life-cycle cost model annually including assumptions for inflation rates, discount rates, and energy rates.

(4) Agencies shall consider architectural and engineering firms' and general contractors' experience using life-cycle costs, operating costs, and energy efficiency measures when selecting an architectural and engineering firm, or when selecting contractors using alternative contracting methods.

NEW SECTION. Sec. 7006. Agencies administering construction projects with a total anticipated cost in excess of \$5,000,000, or \$10,000,000 for higher education institutions, must submit progress reports to the office of financial management and to the fiscal committees of the house of representatives and senate. "Total anticipated cost" means the sum of the anticipated cost of the predesign, design, and construction phases of the project. Reports must be

submitted on July 1st and December 31st of each year in a format determined by the office of financial management. After the project is completed, agencies must also submit a closeout report that identifies the total project cost and any unspent appropriations.

NEW SECTION. Sec. 7007. (1) Allotments for appropriations in this act shall be provided in accordance with the capital project review requirements adopted by the office of financial management and in compliance with RCW 43.88.110. Projects that will be employing alternative public works construction procedures under chapter 39.10 RCW are subject to the allotment procedures defined in this section and RCW 43.88.110.

(2) Each project is defined as proposed in the legislative budget notes or in the governor's budget document.

NEW SECTION. Sec. 7008. (1) The office of financial management may authorize a transfer of appropriation authority provided for a capital project that is in excess of the amount required for the completion of such project to another capital project for which the appropriation is insufficient. No such transfer may be used to expand the capacity of any facility beyond that intended in making the appropriation. Such transfers may be effected only between capital appropriations to a specific department, commission, agency, or institution of higher education and only between capital projects that are funded from the same fund or account. No transfers may occur between projects to local government agencies except where the grants are provided within a single omnibus appropriation and where such transfers are specifically authorized by the implementing statutes that govern the grants.

(2) The office of financial management may find that an amount is in excess of the amount required for the completion of a project only if: (a) The project as defined in the notes to the budget document is substantially complete and there are funds remaining; or (b) bids have been let on a project and it appears to a substantial certainty that the project as defined in the notes to the budget document can be completed within the biennium for less than the amount appropriated in this act.

(3) For the purposes of this section, the intent is that each project be defined as proposed to the legislature in the governor's budget document, unless it clearly appears from the legislative history that the legislature intended to define the scope of a project in a different way.

(4) A report of any transfer effected under this section, except emergency projects or any transfer under \$250,000, shall be filed with the fiscal committees of the legislature by the office of financial management at least thirty days before the date the transfer is effected. The office of financial management shall report all emergency or smaller transfers within thirty days from the date of transfer.

NEW SECTION. Sec. 7009. (1) It is expected that projects be ready to proceed in a timely manner depending on the type or phase of the project or program that is the subject of the appropriation in this act. Except for major projects that customarily may take more than two biennia to complete from predesign to the end of construction, or large infrastructure grant or loan programs supporting projects that often take more than two biennia to complete, the legislature generally does not intend to reappropriate funds more than once,

particularly for smaller grant programs, local/community projects, and minor works.

(2) Agencies shall expedite the expenditure of reappropriations and appropriations in this act in order to: (a) Rehabilitate infrastructure resources; (b) accelerate environmental rehabilitation and restoration projects for the improvement of the state's natural environment; (c) reduce additional costs associated with acquisition and construction inflationary pressures; and (d) provide additional employment opportunities associated with capital expenditures.

(3) To the extent feasible, agencies are directed to accelerate expenditure rates at their current level of permanent employees and shall use contracted design and construction services wherever necessary to meet the goals of this section.

NEW SECTION. Sec. 7010. (1) Any building project that receives over \$10,000,000 in funding from the capital budget must be built to sustainable standards. "Sustainable building" means a building that integrates and optimizes all major high-performance building attributes, including energy efficiency, durability, life-cycle performance, and occupant productivity, and minimizes greenhouse gas emissions. The following design and construction attributes must be integrated into the building project:

(a) Employ integrated design principles: Use a collaborative, integrated planning and design process that initiates and maintains an integrated project team in all stages of a project's planning and delivery. Establish performance goals for siting, energy, water, materials, and indoor environmental quality along with other comprehensive design goals and ensures incorporation of these goals throughout the design and life-cycle of the building. Consider all stages of the building's life-cycle, including deconstruction.

(b) Commissioning: Employ commissioning practices tailored to the size and complexity of the building and its system components in order to verify performance of building components and systems and help ensure that design requirements are met. This should include an experienced commissioning provider, inclusion of commissioning requirements in construction documents, a commissioning plan, verification of the installation and performance of systems to be commissioned, and a commissioning report.

(c) Optimize energy performance: Establish a whole building performance target that takes into account the intended use, occupancy, operations, plug loads, other energy demands, and design to earn the ENERGY STAR targets for new construction and major renovation where applicable. For new construction target low energy use index. For major renovations, target reducing energy use by 50 percent below prerenovations baseline.

(d) On-site renewable energy: Implement renewable energy generation projects on agency property for agency use, when life-cycle cost effective.

(e) High-efficiency electric equipment: Use only high-efficiency electric equipment for water and space heating needs not met through on-site renewable energy, when life-cycle cost effective.

(f) Measurement and verification: For buildings over 50,000 square feet, install building level electricity meters in new major construction and renovation projects to track and continuously optimize performance. Include equivalent meters for natural gas and steam, where natural gas and steam are used. Where

appropriate, install dashboards inside buildings to display and incentivize occupants on energy use.

(g) Benchmarking: Compare performance data from the first year of operation with the energy design target. Verify that the building performance meets or exceeds the design target. For other building and space types, use an equivalent benchmarking tool.

NEW SECTION. Sec. 7011. State agencies, including institutions of higher education, shall allot and report full-time equivalent staff for capital projects in a manner comparable to staff reporting for operating expenditures.

NEW SECTION. Sec. 7012. Executive Order No. 21-02, archaeological and cultural resources, was issued effective November 10, 2005. Agencies shall comply with the requirements set forth in this executive order and must consult with the department of archaeology and historic preservation and affected tribes on the potential effects of projects on cultural resources and historic properties proposed in state-funded construction or acquisition projects, including grant or pass-through funding that culminates in construction or land acquisitions. Consultation with the department of archaeology and historic preservation and affected tribes must be initiated early in the project planning process, prior to construction or taking title.

Sec. 7013. RCW 43.19.501 and 2020 c 356 s 7005 are each amended to read as follows:

The Thurston county capital facilities account is created in the state treasury. The account is subject to the appropriation and allotment procedures under chapter 43.88 RCW. Moneys in the account may be expended for capital projects in facilities owned and managed by the department in Thurston county.

During the 2019-2021 and 2021-2023 fiscal (~~(biennium)~~) biennia, the Thurston county capital facilities account may be appropriated for costs associated with staffing to support capital budget and project activities and lease and facility oversight activities.

NEW SECTION. Sec. 7014. FOR THE ARTS COMMISSION—ART WORK ALLOWANCE. (1) One-half of one percent of moneys appropriated in this act for original construction of school plant facilities is provided solely for the purposes of RCW 28A.335.210.

(2) One-half of one percent of moneys appropriated in this act for original construction or any major renovation or remodel work exceeding \$200,000 by colleges or universities is provided solely for the purposes of RCW 28B.10.027.

(3) One-half of one percent of moneys appropriated in this act for original construction of any public building by a state agency identified in RCW 43.17.200 is provided solely for the purposes of RCW 43.17.200.

(4) At least 80 percent of the moneys spent by the Washington state arts commission during the 2021-2023 biennium for the purposes of RCW 28A.335.210, 28B.10.027, and 43.17.200 must be expended solely for direct acquisition of works of art. Except for art allocations made under K-3 class size reduction grants under section 5030 of this act, art allocations not expended within the ensuing two biennia will lapse. The commission may use up to \$200,000 of this amount to conserve or maintain existing pieces in the state art collection.

NEW SECTION. Sec. 7015. To carry out the provisions of this act, the governor may assign responsibility for predesign, design, construction, and other related activities to any appropriate agency.

NEW SECTION. Sec. 7016. If any federal moneys appropriated by this act for capital projects are not received by the state, the department or agency to which the moneys were appropriated may replace the federal moneys with funds available from private or local sources. No replacement may occur under this section without the prior approval of the director of financial management in consultation with the senate ways and means committee and the house of representatives capital budget committee.

NEW SECTION. Sec. 7017. (1) Unless otherwise stated, for all appropriations under this act that require a match of nonstate money or in-kind contributions, the following requirement, consistent with RCW 43.88.150, shall apply: Expenditures of state money shall be timed so that the state share of project expenditures never exceeds the intended state share of total project costs.

(2) Provision of the full amount of required matching funds is not required to permit the expenditure of capital budget appropriations for phased projects if a proportional amount of the required matching funds is provided for each distinct, identifiable phase of the project.

NEW SECTION. Sec. 7018. NONTAXABLE AND TAXABLE BOND PROCEEDS. Portions of the appropriation authority granted by this act from the state building construction account, or any other account receiving bond proceeds, may be transferred to the state taxable building construction account as deemed necessary by the state finance committee to comply with the federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds. Portions of the general obligation bond proceeds authorized by chapter . . . (Substitute House Bill No. 1081), Laws of 2021, (State General Bonds and General Accounts) for deposit into the state taxable building construction account that are in excess of amounts required to comply with the federal internal revenue service rules and regulations shall be deposited into the state building construction account. The state treasurer shall submit written notification to the director of financial management if it is determined that a shift of appropriation authority between the state building construction account, or any other account receiving bond proceeds, and the state taxable building construction account is necessary, or that a shift of appropriation authority from the state taxable building construction account to the state building construction account may be made.

NEW SECTION. Sec. 7019. (1) Minor works project lists are single line appropriations that include multiple projects of a similar nature and that are valued between \$25,000 and \$1,000,000 each, with the exception of higher education minor works projects that may be valued up to \$2,000,000. Funds appropriated in this act for minor works may not be initially allotted until agencies submit project lists to the office of financial management for review and approval.

(2) Revisions to the project lists, including the addition of projects and the transfer of funds between projects, are allowed but must be submitted to the office of financial management, the house of representatives capital budget committee, and the senate ways and means committee for review and comment,

and must include an explanation of variances from prior approved lists. Any project list revisions must be approved by the office of financial management before funds may be expended from the minor works appropriation.

(3)(a) All minor works projects should be completed within two years of the appropriation with the funding provided.

(b) Agencies are prohibited from including projects on their minor works lists that are a phase of a larger project, and that if combined over a continuous period of time, would exceed \$1,000,000, or \$2,000,000 for higher education minor works projects.

(c) Minor works appropriations may not be used for the following: Studies, except for technical or engineering reviews or designs that lead directly to and support a project on the same minor works list; planning; design outside the scope of work on a minor works list; movable, temporary, and traditionally funded operating equipment not in compliance with the equipment criteria established by the office of financial management; software not dedicated to control of a specialized system; moving expenses; land or facility acquisition; rolling stock; computers; or to supplement funding for projects with funding shortfalls unless expressly authorized. The office of financial management may make an exception to the limitations described in this subsection (3)(c) for exigent circumstances after notifying the legislative fiscal committees and waiting ten days for comments by the legislature regarding the proposed exception.

(d) Minor works preservation projects may include program improvements of no more than 25 percent of the individual minor works preservation project cost.

(e) Improvements for accessibility in compliance with the Americans with disabilities act may be included in any of the minor works categories.

NEW SECTION. Sec. 7020. FOR THE STATE TREASURER—TRANSFERS

(1) Public Works Assistance Account: For transfer to the drinking water assistance account, up to \$5,500,000 for fiscal year 2022 and up to \$5,500,000 for fiscal year 2023 \$11,000,000

(2) Public Works Assistance Account: For transfer to the water pollution control revolving account, up to \$7,500,000 for fiscal year 2022 and up to \$7,500,000 for fiscal year 2023 \$15,000,000

(3) Public Works Assistance Account: For transfer to the statewide broadband account, up to \$7,000,000 for fiscal year 2022 and up to \$7,000,000 for fiscal year 2023 \$14,000,000

NEW SECTION. Sec. 7021. To the extent that any appropriation authorizes expenditures of state funds from the state building construction account, or from any other capital project account in the state treasury, for a capital project or program that is specified to be funded with proceeds from the sale of bonds, the legislature declares that any such expenditures for that project or program made prior to the issue date of the applicable bonds are intended to be reimbursed from proceeds of those bonds in a maximum amount equal to the amount of such appropriation.

NEW SECTION. Sec. 7022. In order to accelerate the reduction of embodied carbon and improve the environmental performance of construction materials, agencies shall, whenever possible, review and consider embodied carbon reported in environmental product declarations when evaluating proposed structural materials for construction projects.

NEW SECTION. Sec. 7023. The joint legislative task force created in 2018 c 298 s 7011 (uncodified) is hereby reauthorized through June 30, 2023, subject to the requirements that studies and selection of scientists or organizations to implement the studies must be made by a 60 percent majority of the members of the task force and that if a member has not been designated for a position set forth in section 7011(2), chapter 298, Laws of 2018 (uncodified), that position may not be counted for purposes of determining a quorum.

Sec. 7024. RCW 90.94.090 and 2019 c 413 s 7035 are each reenacted and amended to read as follows:

(1) A joint legislative task force on water resource mitigation is established to review the treatment of surface water and groundwater appropriations as they relate to instream flows and fish habitat, to develop and recommend a mitigation sequencing process and scoring system to address such appropriations, and to review the Washington supreme court decision in *Foster v. Department of Ecology*, 184 Wn.2d 465, 362 P.3d 959 (2015).

(2) The task force must consist of the following members:

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

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

(c) A representative from the department, appointed by the director of the department;

(d) A representative from the department of fish and wildlife, appointed by the director of the department of fish and wildlife;

(e) A representative from the department of agriculture, appointed by the director of the department of agriculture;

(f) One representative from each of the following groups, appointed by the consensus of the cochairs of the task force:

(i) An organization representing the farming industry in Washington;

(ii) An organization representing Washington cities;

(iii) Two representatives from an environmental advocacy organization or organizations;

(iv) An organization representing municipal water purveyors;

(v) An organization representing business interests;

(vi) Representatives of two federally recognized Indian tribes, one invited by recommendation of the Northwest Indian fisheries commission, and one invited by recommendation of the Columbia river intertribal fish commission.

(3) If a member has not been designated for a position set forth in subsection (2) of this section, that position may not be counted for purposes of determining a quorum.

(4) One cochair of the task force must be a member of the majority caucus of one chamber of the legislature, and one cochair must be a member of the

minority caucus of the other chamber of the legislature, as those caucuses existed as of January 19, 2018.

(5) The first meeting of the task force must occur by June 30, 2018.

(6) Staff support for the task force must be provided by the office of program research and senate committee services. The department and the department of fish and wildlife shall cooperate with the task force and provide information as the cochairs reasonably request.

(7) Within existing appropriations, the expenses of the operations of the task force, including the expenses associated with the task force's meetings, must be paid jointly and in equal amounts by the senate and the house of representatives. Task force expenditures are subject to approval by the house executive rules committee and the senate facility and operations committee. 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 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.

(8)(a) By November 15, 2019, and November 15, 2022, the joint legislative task force must make recommendations to the legislature in compliance with RCW 43.01.036. ~~((The task force may update its November 15, 2019, recommendations by November 15, 2020, if a majority of the members of the task force determine that such an update is appropriate based on additional information developed as a result of the pilot projects established under subsection (9) of this section.))~~

(b) Recommendations of the joint legislative task force must be made by a sixty percent majority of the appointed members of the task force. The representatives of the departments of fish and wildlife, ecology, and agriculture are not eligible to vote on the recommendations. Minority recommendations that achieve the support of at least five of the appointed voting members of the task force may also be submitted to the legislature.

(9) The department shall issue permit decisions for up to five water resource mitigation pilot projects. It is the intent of the legislature to use the pilot projects to inform the legislative task force process while also enabling the processing of water right applications that address water supply needs. The department is authorized to issue permits in reliance upon water resource mitigation of impacts to instream flows and closed surface water bodies under the following mitigation sequence:

(a) Avoiding impacts by: (i) Complying with mitigation required by adopted rules that set forth minimum flows, levels, or closures; or (ii) making the water diversion or withdrawal subject to the applicable minimum flows or levels; or

(b) Where avoidance of impacts is not reasonably attainable, minimizing impacts by providing permanent new or existing trust water rights or through other types of replacement water supply resulting in no net annual increase in the quantity of water diverted or withdrawn from the stream or surface water body and no net detrimental impacts to fish and related aquatic resources; or

(c) Where avoidance and minimization are not reasonably attainable, compensating for impacts by providing net ecological benefits to fish and related aquatic resources in the water resource inventory area through in-kind or out-of-kind mitigation or a combination thereof, that improves the function and

productivity of affected fish populations and related aquatic habitat. Out-of-kind mitigation may include instream or out-of-stream measures that improve or enhance existing water quality, riparian habitat, or other instream functions and values for which minimum instream flows or closures were established in that watershed.

(10) The department must monitor the implementation of the pilot projects, including all mitigation associated with each pilot project, approved under this section at least annually through December 31, 2028.

(11) The pilot projects eligible for processing under this section, based on criteria as of January 19, 2018, include:

(a) A city operating a group A water system in Kitsap county and water resource inventory area 15, with a population between 13,000 and 14,000;

(b) A city operating a group A water system in Pierce county and water resource inventory area 10, with a population between 9,500 and 10,500;

(c) A city operating a group A water system in Thurston county and water resource inventory area 11, with a population between 8,500 and 9,500;

(d) A nonprofit mutual water system operating a group A water system in Pierce county and water resource inventory area 12, with between 10,500 and 11,500 service connections; and

(e) An irrigation district located in Whatcom county and water resource inventory area 1, solely for the purpose of processing changes of water rights from surface water to groundwater, and implementing flow augmentation to benefit instream flows.

(12) Water right applicants eligible to be processed under this pilot project authority must elect to be included in the pilot project review by notifying the department by July 1, 2018. Once an applicant notifies the department of its intent to be processed under this pilot project authority, subsection (9) of this section applies to final decisions issued by the department, even if such a final decision is issued after the expiration of this section.

(13) By November 15, 2018, the department must furnish the task force with information on conceptual mitigation plans for each water resource mitigation pilot project application. By November 15, 2019, and November 15, 2022, the department must provide the task force with an update on the mitigation plans based on additional information developed after November 15, 2018.

(14) To ensure that the processing of pilot project applications can inform the task force process in a timely manner, the department must expedite processing of applications for water resource mitigation pilot projects. The applicant for each pilot project must reimburse the department for the department's costs of processing the applicant's application.

(15) The water resource mitigation pilot project authority granted to the department does not affect or modify any other procedural requirements of chapter 90.03, 90.44, or 90.54 RCW that apply to the processing of such applications.

(16) The joint legislative task force expires December 31, ~~((2020))~~ 2022. During the period from November 16, 2019, through December 31, ~~((2020))~~ 2022, the work of the task force is limited to:

(a) A review of any additional information that may be developed after November 15, 2019, as a result of the pilot projects established under subsection (9) of this section; and

(b) An update of the task force's November 15, 2019, recommendations (~~(under subsection (8) of this section)~~).

(17) This section expires January 1, 2029.

Sec. 7025. RCW 28B.15.210 and 2019 c 413 s 7023 are each amended to read as follows:

Within thirty-five days from the date of collection thereof, all building fees at the University of Washington, including building fees to be charged students registering in the schools of medicine and dentistry, shall be paid into the state treasury and credited as follows:

One-half or such larger portion as may be necessary to prevent a default in the payments required to be made out of the bond retirement fund to the "University of Washington bond retirement fund" and the remainder thereof to the "University of Washington building account." The sum so credited to the University of Washington building account shall be used exclusively for the purpose of erecting, altering, maintaining, equipping, or furnishing buildings, and for certificates of participation under chapter 39.94 RCW, except for any sums transferred as authorized in RCW 28B.20.725(3). The sum so credited to the University of Washington bond retirement fund shall be used for the payment of principal of and interest on bonds outstanding as provided by chapter 28B.20 RCW except for any sums transferred as authorized in RCW 28B.20.725(5). (~~During the 2017-2019 biennium, sums credited to the University of Washington building account may also be used for routine facility maintenance, utility costs, and facility condition assessments.~~) During the 2019-2021 biennium, sums credited to the University of Washington building account may also be used for routine facility maintenance, utility costs, and facility condition assessments. During the 2021-2023 biennium, sums credited to the University of Washington building account may also be used for routine facility maintenance, utility costs, and facility condition assessments.

Sec. 7026. RCW 28B.15.310 and 2019 c 413 s 7024 are each amended to read as follows:

Within thirty-five days from the date of collection thereof, all building fees shall be paid and credited as follows: To the Washington State University bond retirement fund, one-half or such larger portion as may be necessary to prevent a default in the payments required to be made out of such bond retirement fund; and the remainder thereof to the Washington State University building account.

The sum so credited to the Washington State University building account shall be expended by the board of regents for buildings, equipment, or maintenance on the campus of Washington State University as may be deemed most advisable and for the best interests of the university, and for certificates of participation under chapter 39.94 RCW, except for any sums transferred as authorized by law. (~~During the 2017-2019 biennium, sums credited to the Washington State University building account may also be used for routine facility maintenance, utility costs, and facility condition assessments.~~) During the 2019-2021 biennium, sums credited to the Washington State University building account may also be used for routine facility maintenance, utility costs,

and facility condition assessments. During the 2021-2023 biennium, sums credited to the Washington State University building account may also be used for routine facility maintenance, utility costs, and facility condition assessments. Expenditures so made shall be accounted for in accordance with existing law and shall not be expended until appropriated by the legislature.

The sum so credited to the Washington State University bond retirement fund shall be used to pay and secure the payment of the principal of and interest on building bonds issued by the university, except for any sums which may be transferred out of such fund as authorized by law.

Sec. 7027. RCW 28B.20.725 and 2019 c 413 s 7025 are each amended to read as follows:

The board is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the University of Washington building account to the bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds;

(5) To authorize the transfer to the University of Washington building account of any money on deposit in the bond retirement fund in excess of debt service for a period of three years from the date of such transfer on all outstanding bonds payable out of such fund. ~~((However, during the 2017-2019 fiscal biennium, the legislature may transfer to the University of Washington building account moneys that are in excess of the debt service due within the 2017-2019 fiscal biennium from the date of such transfer on all outstanding bonds payable out of the bond retirement fund.))~~ However, during the 2019-2021 fiscal biennium, the legislature may transfer to the University of Washington building account moneys that are in excess of the debt service due within the 2019-2021 fiscal biennium from the date of such transfer on all outstanding bonds payable out of the bond retirement fund. However, during the 2021-2023 fiscal biennium, the legislature may transfer to the University of Washington building account moneys that are in excess of the debt service due within the 2021-2023 fiscal biennium from the date of such transfer on all outstanding bonds payable out of the bond retirement fund.

Sec. 7028. RCW 28B.30.750 and 2019 c 413 s 7026 are each amended to read as follows:

The board is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the Washington State University building account to the bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds;

(5) To authorize the transfer to the Washington State University building account of any money on deposit in the bond retirement fund in excess of debt service for a period of three years from the date of such transfer on all outstanding bonds payable out of such fund. ~~((However, during the 2017-2019 fiscal biennium, the legislature may transfer to the Washington State University building account moneys that are in excess of the debt service due within the 2017-2019 fiscal biennium from the date of such transfer on all outstanding bonds payable out of the bond retirement fund.))~~ However, during the 2019-2021 fiscal biennium, the legislature may transfer to the Washington State University building account moneys that are in excess of the debt service due within the 2019-2021 fiscal biennium from the date of such transfer on all outstanding bonds payable out of the bond retirement fund. However, during the 2021-2023 fiscal biennium, the legislature may transfer to the Washington State University building account moneys that are in excess of the debt service due within the 2021-2023 fiscal biennium from the date of such transfer on all outstanding bonds payable out of the bond retirement fund.

Sec. 7029. RCW 28B.35.370 and 2019 c 413 s 7027 are each amended to read as follows:

Within thirty-five days from the date of collection thereof all building fees of each regional university and The Evergreen State College shall be paid into the state treasury and these together with such normal school fund revenues as provided in RCW 28B.35.751 as are received by the state treasury shall be credited as follows:

(1) On or before June 30th of each year the board of trustees of each regional university and The Evergreen State College, if issuing bonds payable out of its building fees and above described normal school fund revenues, shall certify to the state treasurer the amounts required in the ensuing twelve months to pay and secure the payment of the principal of and interest on such bonds. The amounts so certified by each regional university and The Evergreen State College shall be a prior lien and charge against all building fees and above described normal school fund revenues of such institution. The state treasurer shall thereupon deposit the amounts so certified in the Eastern Washington University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account, or The Evergreen State College capital projects account respectively, which accounts are hereby created in the state treasury. The amounts deposited in the respective capital projects accounts shall be used to pay and secure the payment of the principal of and interest on the building bonds issued by such regional universities and The Evergreen State College as authorized by law. If in any twelve-month period it shall appear that the amount certified by any such board of trustees is insufficient to pay and secure the payment of the principal of and interest on the outstanding building and above described normal school fund revenue bonds of its institution, the state treasurer shall notify the board of trustees and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal of and interest on all such bonds then outstanding shall be fully met at all times.

(2) All normal school fund revenue pursuant to RCW 28B.35.751 shall be deposited in the Eastern Washington University capital projects account, the Central Washington University capital projects account, the Western Washington University capital projects account, or The Evergreen State College capital projects account respectively, which accounts are hereby created in the state treasury. The sums deposited in the respective capital projects accounts shall be appropriated and expended to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and normal school revenue and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto except for any sums transferred therefrom as authorized by law. ~~((During the 2017-2019 biennium, sums in the respective capital accounts may also be used for routine facility maintenance, utility costs, and facility condition assessments.))~~ During the 2019-2021 biennium, sums in the respective capital accounts may also be used for routine facility maintenance, utility costs, and facility condition assessments. During the 2021-2023 biennium, sums in the respective capital accounts may also be used for routine facility maintenance, utility costs, and facility condition assessments.

(3) Funds available in the respective capital projects accounts may also be used for certificates of participation under chapter 39.94 RCW.

Sec. 7030. RCW 28B.50.360 and 2019 c 413 s 7028 are each amended to read as follows:

Within thirty-five days from the date of start of each quarter all collected building fees of each such community and technical college shall be paid into the state treasury, and shall be credited as follows:

(1) On or before June 30th of each year the college board, if issuing bonds payable out of building fees, shall certify to the state treasurer the amounts required in the ensuing twelve-month period to pay and secure the payment of the principal of and interest on such bonds. The state treasurer shall thereupon deposit the amounts so certified in the community and technical college capital projects account. Such amounts of the funds deposited in the community and technical college capital projects account as are necessary to pay and secure the payment of the principal of and interest on the building bonds issued by the college board as authorized by this chapter shall be devoted to that purpose. If in any twelve-month period it shall appear that the amount certified by the college board is insufficient to pay and secure the payment of the principal of and interest on the outstanding building bonds, the state treasurer shall notify the college board and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal and interest on all such bonds then outstanding shall be fully met at all times.

(2) The community and technical college capital projects account is hereby created in the state treasury. The sums deposited in the capital projects account shall be appropriated and expended to pay and secure the payment of the principal of and interest on bonds payable out of the building fees and for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community and technical colleges in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or

appurtenances in relation thereto, engineering and architectural services provided by the department of enterprise services, and for the payment of principal of and interest on any bonds issued for such purposes. (~~During the 2017-2019 biennium, sums in the capital projects account may also be used for routine facility maintenance and utility costs.~~) During the 2019-2021 biennium, sums in the capital projects account may also be used for routine facility maintenance and utility costs. During the 2021-2023 biennium, sums in the capital projects account may also be used for routine facility maintenance and utility costs.

(3) Funds available in the community and technical college capital projects account may also be used for certificates of participation under chapter 39.94 RCW.

Sec. 7031. RCW 43.155.050 and 2019 c 415 s 972 and 2019 c 413 s 7033 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 2017-2019 and 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. It is the intent of the legislature that this policy will be continued in subsequent fiscal biennia. (~~If chapter 365, Laws of 2019 (Second Substitute Senate Bill No. 5511, broadband service) is enacted by June 30, 2019, then during~~) During the 2019-2021 and 2021-2023 fiscal ((biennium)) biennia, the legislature may direct the state treasurer to make transfers of moneys in the public works assistance account to the statewide broadband account.

Sec. 7032. RCW 43.185.050 and 2018 c 223 s 4 are each amended to read as follows:

(1) The department must use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide housing for persons and families with special housing

needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located. At least thirty percent of these moneys used in any given funding cycle must be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) Rent subsidies;

(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;

(d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(f) Shelters and related services for the homeless, including emergency shelters and overnight youth shelters;

(g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;

(h) Mortgage insurance guarantee or payments for eligible projects;

(i) Down payment or closing cost assistance for eligible first-time home buyers;

(j) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing;

(k) Projects making housing more accessible to families with members who have disabilities; and

(l) Remodeling and improvements as required to meet building code, licensing requirements, or legal operations to residential properties owned and operated by an entity eligible under RCW 43.185A.040, which were transferred as described in RCW 82.45.010(3)(t) by the parent of a child with developmental disabilities.

(3) Preference must be given for projects that include an early learning facility.

(4) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2)(a), (i), and (j) of this section, and not for the administrative costs of the department, except that during the 2021-2023 fiscal biennium, the department may use up to three percent of the appropriations from capital bond proceeds for administrative costs associated with application, distribution, and project development activities of the housing assistance program.

(5) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of

the housing assistance program except for activities authorized under subsection (2)(b) and (c) of this section.

(6) Administrative costs associated with application, distribution, and project development activities of the department may not exceed three percent of the annual funds available for the housing assistance program. Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

(7) Administrative costs associated with compliance and monitoring activities of the department may not exceed one-quarter of one percent annually of the contracted amount of state investment in the housing assistance program.

Sec. 7033. RCW 43.155.150 and 2017 3rd sp.s. c 10 s 11 are each amended to read as follows:

(1) An interagency, multijurisdictional system improvement team must identify, implement, and report on system improvements that achieve the designated outcomes, including:

(a) Projects that maximize value, minimize overall costs and disturbance to the community, and ensure long-term durability and resilience;

(b) Projects that are designed to meet the unique needs of each community, rather than the needs of particular funding programs;

(c) Project designs that maximize long-term value by fully considering and responding to anticipated long-term environmental, technological, economic and population changes;

(d) The flexibility to innovate, including utilizing natural systems, addressing multiple regulatory drivers, and forming regional partnerships;

(e) The ability to plan and collaborate across programs and jurisdictions so that different investments are packaged to be complementary, timely, and responsive to economic and community opportunities;

(f) The needed capacity for communities, appropriate to their unique financial, planning, and management capacities, so they can design, finance, and build projects that best meet their long-term needs and minimize costs;

(g) Optimal use and leveraging of federal and private infrastructure dollars; and

(h) Mechanisms to ensure periodic, system-wide review and ongoing achievement of the designated outcomes.

(2) The system improvement team must consist of representatives of state infrastructure programs that provide funding for drinking water, wastewater, ~~(and)~~ stormwater, and broadband programs, including but not limited to representatives from the public works board, department of ecology, department of health, and the department of commerce. The system improvement team may invite representatives of other infrastructure programs, such as transportation ~~(and)~~, energy, and broadband, as needed in order to achieve efficiency, minimize costs, and maximize value across infrastructure programs. The system improvement team shall also consist of representatives of users of those programs, representatives of infrastructure project builders, and other parties the system improvement team determines would contribute to achieving the desired outcomes, including but not limited to representatives from a state association of cities, a state association of counties, a state association of public utility districts, a state association of water and sewer districts, a state association of general contractors, and a state organization representing building trades. The public

works board, a representative from the department of ecology, department of health, and department of commerce shall facilitate the work of the system improvement team.

(3) The system improvement team must focus on achieving the designated outcomes within existing program structures and authorities. The system improvement team shall use lean practices to achieve the designated outcomes.

(4) The system improvement team shall provide briefings as requested to the public works board on the current state of infrastructure programs to build an understanding of the infrastructure investment program landscape and the interplay of its component parts.

(5) If the system improvement team encounters statutory or regulatory barriers to system improvements, the system improvement team must inform the public works board and consult on possible solutions. When achieving the designated outcomes would be best served through changes in program structures or authorities, the system improvement team must report those findings to the public works board.

(6) By September 1, 2022, in compliance with RCW 43.01.036, the system improvement team must submit a report to the appropriate committees of the legislature that includes the following:

(a) A list of all projects funded by members of the system improvement team;

(b) A description of the coordination the system improvement team has completed with other grant programs and funds leveraged; and

(c) A description of regional planning that has occurred.

(7) This section expires June 30, ((2021)) 2025.

Sec. 7034. RCW 43.88D.010 and 2019 c 413 s 7032 are each amended to read as follows:

(1) By October 1st of each even-numbered year, the office of financial management shall complete an objective analysis and scoring of all capital budget projects proposed by the public four-year institutions of higher education and submit the results of the scoring process to the legislative fiscal committees and the four-year institutions. Each project must be reviewed and scored within one of the following categories, according to the project's principal purpose. Each project may be scored in only one category. The categories are:

(a) Access-related projects to accommodate enrollment growth at all campuses, at existing or new university centers, or through distance learning. Growth projects should provide significant additional student capacity. Proposed projects must demonstrate that they are based on solid enrollment demand projections, more cost-effectively provide enrollment access than alternatives such as university centers and distance learning, and make cost-effective use of existing and proposed new space;

(b) Projects that replace failing permanent buildings. Facilities that cannot be economically renovated are considered replacement projects. New space may be programmed for the same or a different use than the space being replaced and may include additions to improve access and enhance the relationship of program or support space;

(c) Projects that renovate facilities to restore building life and upgrade space to meet current program requirements. Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A

reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life. New space may be programmed for the same or a different use than the space being renovated and may include additions to improve access and enhance the relationship of program or support space;

(d) Major stand-alone campus infrastructure projects;

(e) Projects that promote economic growth and innovation through expanded research activity. The acquisition and installation of specialized equipment is authorized under this category; and

(f) Other project categories as determined by the office of financial management in consultation with the legislative fiscal committees.

(2) The office of financial management, in consultation with the legislative fiscal committees, shall establish a scoring system and process for each four-year project category that is based on the framework used in the community and technical college system of prioritization. Staff from the state board for community and technical colleges and the four-year institutions shall provide technical assistance on the development of a scoring system and process.

(3) The office of financial management shall consult with the legislative fiscal committees in the scoring of four-year institution project proposals, and may also solicit participation by independent experts.

(a) For each four-year project category, the scoring system must, at a minimum, include an evaluation of enrollment trends, reasonableness of cost, the ability of the project to enhance specific strategic master plan goals, age and condition of the facility if applicable, and impact on space utilization.

(b) Each four-year project category may include projects at the predesign, design, or construction funding phase.

(c) To the extent possible, the objective analysis and scoring system of all capital budget projects shall occur within the context of any and all performance agreements between the office of financial management and the governing board of a public, four-year institution of higher education that aligns goals, priorities, desired outcomes, flexibility, institutional mission, accountability, and levels of resources.

(4) In evaluating and scoring four-year institution projects, the office of financial management shall take into consideration project schedules that result in realistic, balanced, and predictable expenditure patterns over the ensuing three biennia.

(5) The office of financial management shall distribute common definitions, the scoring system, and other information required for the project proposal and scoring process as part of its biennial budget instructions. The office of financial management, in consultation with the legislative fiscal committees, shall develop common definitions that four-year institutions must use in developing their project proposals and lists under this section.

(6) In developing any scoring system for capital projects proposed by the four-year institutions, the office of financial management:

(a) Shall be provided with all required information by the four-year institutions as deemed necessary by the office of financial management;

(b) May utilize independent services to verify, sample, or evaluate information provided to the office of financial management by the four-year institutions; and

(c) Shall have full access to all data maintained by the joint legislative audit and review committee concerning the condition of higher education facilities.

(7) By August 1st of each even-numbered year each public four-year higher education institution shall prepare and submit prioritized lists of the individual projects proposed by the institution for the ensuing six-year period in each category. The lists must be submitted to the office of financial management and the legislative fiscal committees. The four-year institutions may aggregate minor works project proposals by primary purpose for ranking purposes. Proposed minor works projects must be prioritized within the aggregated proposal, and supporting documentation, including project descriptions and cost estimates, must be provided to the office of financial management and the legislative fiscal committees.

(8) For the ~~((2017-2019 fiscal biennium and the))~~ 2019-2021 fiscal biennium and the 2021-2023 fiscal biennium, pursuant to subsection (1) of this section, by November 1, ~~((2020))~~ 2022, the office of financial management must score higher education capital project criteria with a rating scale that assesses how well a particular project satisfies those criteria. The office of financial management may not use a rating scale that weighs the importance of those criteria.

(9) For the ~~((2017-2019 fiscal biennium and the))~~ 2019-2021 fiscal biennium and the 2021-2023 fiscal biennium, pursuant to subsection (6)(a) of this section and in lieu of the requirements of subsection (7) of this section, by August 15, ~~((2020))~~ 2022, the institutions of higher education shall prepare and submit or resubmit to the office of financial management and the legislative fiscal committees:

(a) Individual project proposals developed pursuant to subsection (1) of this section;

(b) Individual project proposals scored in prior biennia pursuant to subsection (1) of this section; and

(c) A prioritized list of up to five project proposals submitted pursuant to (a) and (b) of this subsection.

NEW SECTION. Sec. 7035. The public use general aviation airport loan revolving account is created in the custody of the state treasurer. All receipts from moneys directed by law to the account must be deposited into the account. Expenditures from the account may be used only for the purposes described in section 7036 of this act. Only the community aviation revitalization board or the board's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 7036. (1)(a) The community aviation revitalization board is established to exercise the powers granted under this section.

(b) The board must consist of a representative from the department of transportation's aviation division, the public works board, and a nonlegislative member of the community economic revitalization board. The board must also consist of the following members appointed by the secretary of transportation: One port district official, one county official, one city official, one representative of airport managers, and one representative of a general aviation pilots organization within Washington that has an active membership and established

location, chapter, or appointed representative within Washington. The appointive members must initially be appointed to terms as follows: Two members for two-year terms, and three members for three-year terms that must include the chair. Thereafter, each succeeding term must be for three years. The secretary of transportation must select the chair of the board. The members of the board must elect one of their members to serve as vice chair.

(c) The department of transportation must provide management services, including fiscal and contract services, to assist the board in implementing this section.

(d) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the secretary of transportation must fill the vacancy for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the secretary of transportation, under chapter 34.05 RCW.

(e) A member appointed by the secretary of transportation may not be absent from more than 50 percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation has withdrawn from the board and may be replaced by the secretary of transportation.

(f) A majority of members currently appointed constitutes a quorum.

(g) The board must meet three times a year or as deemed necessary by the department of transportation.

(h) The department of transportation must provide staff support as needed.

(2) In addition to other applicable provisions of law pertaining to conflicts of interest of public officials, any community aviation revitalization board member, appointive or otherwise, may not participate in any decision on any board contract in which the board member has any interests, direct or indirect, with any firm, partnership, corporation, or association that would be the recipient of any aid under this section. If such participation occurs, the board must void the transaction and the involved member is subject to further sanctions as provided by law. The board must adopt a code of ethics for its members, which must be designed to protect the state and its citizens from any unethical conduct by the board.

(3) The community aviation revitalization board may:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) Adopt an official seal and alter the seal at its pleasure;

(c) Use the services of other governmental agencies;

(d) Accept from any federal agency loans or grants for the planning or financing of any project and enter into an agreement with the agency respecting the loans or grants;

(e) Conduct examinations and investigations and take testimony at public hearings of any matter material for its information that will assist in determinations related to the exercise of the board's lawful powers;

(f) Accept any gifts, grants, loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions that are not in conflict with this section;

(g) Enter into agreements or other transactions with and accept grants and cooperation from any governmental agency in furtherance of this section;

(h) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this section; and

(i) Perform all acts and things necessary or convenient to carry out the powers expressly granted or implied under this section.

(4)(a)(i) The community aviation revitalization board may make direct loans to airport sponsors of public use airports in the state for the purpose of airport improvements that primarily support general aviation activities. The board may provide loans for the purpose of airport improvements only if the state is receiving commensurate public benefit, which must include, as a condition of the loan, a commitment to provide public access to the airport for a period of time equivalent to one and one-half times the term of the loan.

(ii) For purposes of this subsection (4)(a), "public use airports" means all public use airports not listed as having more than \$75,000 annual commercial air service passenger enplanements as published by the federal aviation administration.

(b) An application for loan funds under this section must be made in the form and manner that the board prescribes. When evaluating loan applications, the board must prioritize applications that provide conclusive justification that completion of the loan application project will create revenue-generating opportunities. The board is not limited to, but must also use, the following expected outcome conditions when evaluating loan applications:

(i) A specific private development or expansion is ready to occur and will occur only if the aviation facility improvement is made;

(ii) The loan application project results in the creation of jobs or private sector capital investment as determined by the board;

(iii) The loan application project improves opportunities for the successful maintenance, operation, or expansion of an airport or adjacent airport business park;

(iv) The loan application project results in the creation or retention of long-term economic opportunities; and

(v) The loan application project results in leveraging additional federal funding for an airport.

(c)(i) If the board chooses to require a local match, the board must develop guidelines for local participation and allowable match and activities.

(ii) An application must:

(A) Be supported by the port district, city, or county in which the project is located; or

(B) Clearly identify the source of funds intended to repay the loan.

(5) The public use general aviation airport loan program, when authorized by the community aviation revitalization board, is subject to the following conditions:

(a) The moneys in the public use general aviation airport loan revolving account created in section 7035 of this act must be used only to fulfill commitments arising from loans authorized in this section. The total outstanding amount that the board must disperse at any time pursuant to this section must not exceed the moneys available from the account.

(b) On contracts made for public use general aviation airport loans, the board must determine the interest rate that loans must bear. The interest rate must not exceed the amount needed to cover the administrative expenses of the

board and the loan program. The board may provide reasonable terms and conditions for the repayment of loans, with the repayment of a loan to begin no later than three years after the award date of the loan. The loans must not exceed 20 years in duration.

(c) The repayment of any loan made from the public use general aviation airport loan revolving account under the contracts for aviation loans must be paid into the public use general aviation airport loan revolving account.

(6) All receipts from moneys collected under this section must be deposited into the public use general aviation airport loan revolving account.

NEW SECTION. Sec. 7037. Sections 7035 and 7036 of this act do not take effect if chapter . . . (Senate Bill 5031), Laws of 2021 (community aviation revitalization loan program) is enacted by June 30, 2021.

NEW SECTION. Sec. 7038. The state board for community and technical colleges shall report to the fiscal committees of the legislature by December 15, 2021, on alternative methods of prioritizing and presenting the list of requested capital projects for community and technical colleges in the 2023-2025 fiscal biennium. This report shall take into consideration: (a) The need to balance long term community and technical college system planning and growth management priorities; (b) the need to balance major capital project requests for design and construction funding, given the fiscal impact of funded design projects on the state's capital budget; and (c) the need to balance state funding between design and construction to meet the community and technical colleges' priorities. The alternative methods included in the report may include, but are not limited to, the following concepts:

(1) Separately ranking the following types of requests for project funding: (a) Requests for major projects' construction phase, including those projects for which design and construction funding are requested together to facilitate alternative public works contracting procedures pursuant to chapter 39.10 RCW; (b) requests solely for the design phase of major projects; and (c) requests for minor works funding; and

(2) Requiring that the number of major project funding requests that are solely for the design phase may not exceed the number of major projects funding requests that include funding for the construction phase.

Sec. 7039. RCW 43.330.520 and 2019 c 404 s 2 are each amended to read as follows:

(1) The department must produce a biennial report identifying a list of projects to address incompatible developments near military installations.

(a) The list must include a description of each project, the estimated cost of the project, the amount of recommended state funding, and the amount of any federal or local funds documented to be available to be used for the project.

(b) Projects on the list must be prioritized with consideration given to:

(i) The recommendations of the recent United States department of defense base realignment and closure (BRAC) processes, joint land use studies, or other federally initiated land use processes; and

(ii) Whether a branch of the United States armed forces has identified the project as increasing the viability of military installations for current or future missions.

(c) The department may consult with the commanders of United States military installations in Washington to understand impacts and identify the viability of community identified projects to reduce incompatibility.

(2) The department must submit the report to appropriate committees of the house of representatives and the senate, including the joint committee on veterans' and military affairs and the house of representatives capital budget committee, by January 1, 2020, and every two years thereafter.

(3) For the 2021-2023 fiscal biennium, the department shall develop the report in subsection (2) of this section by November 1, 2022, rather than by January 1, 2022.

Sec. 7040. RCW 43.155.160 and 2019 c 365 s 7 are each amended to read as follows:

(1) The board, in collaboration with the office, shall establish a competitive grant and loan program to award funding to eligible applicants in order to promote the expansion of access to broadband service in unserved areas of the state.

(2)(a) Grants and loans may be awarded under this section to assist in funding acquisition, installation, and construction of middle mile and last mile infrastructure that supports broadband services and to assist in funding strategic planning for deploying broadband service in unserved areas.

(b) The board may choose to fund all or part of an application for funding, provided that the application meets the requirements of subsection (9) of this section.

(3) Eligible applicants for grants and loans awarded under this section include:

- (a) Local governments;
- (b) Tribes;
- (c) Nonprofit organizations;
- (d) Cooperative associations;
- (e) Multiparty entities comprised of public entity members;
- (f) Limited liability corporations organized for the purpose of expanding broadband access; and
- (g) Incorporated businesses or partnerships.

(4)(a) The board shall develop administrative procedures governing the application and award process. The board shall act as fiscal agent for the program and is responsible for receiving and reviewing applications and awarding funds under this section.

(b) At least sixty days prior to the first day applications may be submitted each fiscal year, the board must publish on its web site the specific criteria and any quantitative weighting scheme or scoring system that the board will use to evaluate or rank applications and award funding.

(c) The board may maintain separate accounting in the statewide broadband account created in RCW 43.155.165 as the board deems necessary to carry out the purposes of this section.

(d) The board must provide a method for the allocation of loans, grants, provision of technical assistance, and interest rates under this section.

(5) An applicant for a grant or loan under this section must provide the following information on the application:

- (a) The location of the project;

(b) Evidence regarding the unserved nature of the community in which the project is to be located;

(c) Evidence that proposed infrastructure will be capable of scaling to greater download and upload speeds;

(d) The number of households passed that will gain access to broadband service as a result of the project or whose broadband service will be upgraded as a result of the project;

(e) The estimated cost of retail services to end users facilitated by a project;

(f) The proposed actual download and upload speeds experienced by end users;

(g) Evidence of significant community institutions that will benefit from the proposed project;

(h) Anticipated economic, educational, health care, or public safety benefits created by the project;

(i) Evidence of community support for the project;

(j) If available, a description of the applicant's user adoption assistance program and efforts to promote the use of newly available broadband services created by the project;

(k) The estimated total cost of the project;

(l) Other sources of funding for the project that will supplement any grant or loan award;

(m) A demonstration of the project's long-term sustainability, including the applicant's financial soundness, organizational capacity, and technical expertise;

(n) A strategic plan to maintain long-term operation of the infrastructure;

(o) Evidence that no later than six weeks before submission of the application, the applicant contacted, in writing, all entities providing broadband service near the proposed project area to ask each broadband service provider's plan to upgrade broadband service in the project area to speeds that meet or exceed the state's definition for broadband service as defined in RCW 43.330.530, within the time frame specified in the proposed grant or loan activities;

(p) If applicable, the broadband service providers' written responses to the inquiry made under (o) of this subsection; and

(q) Any additional information requested by the board.

(6)(a) Within thirty days of the close of the grant and loan application process, the board shall publish on its web site the proposed geographic broadband service area and the proposed broadband speeds for each application submitted.

(b) Any existing broadband service provider near the proposed project area may, within thirty days of publication of the information under (a) of this subsection, submit in writing to the board an objection to an application. An objection must contain information demonstrating that:

(i) The project would result in overbuild, meaning that the objecting provider currently provides, or has begun construction to provide, broadband service to end users in the proposed project area at speeds equal to or greater than the state speed goals contained in RCW 43.330.536; or

(ii) The objecting provider commits to complete construction of broadband infrastructure and provide broadband service to end users in the proposed project area at speeds equal to or greater than the state speed goals contained in RCW

43.330.536, no later than twenty-four months after the date awards are made under this section for the grant and loan cycle under which the application was submitted.

(c) Objections submitted to the board under this subsection must be certified by affidavit.

(d) The board may evaluate the information submitted under this section by the objecting provider and must consider it in making a determination on the application objected to. The board may request clarification or additional information. The board may choose to not fund a project if the board determines that the objecting provider's commitment to provide broadband service that meets the requirements of (b) of this subsection in the proposed project area is credible. In assessing the commitment, the board may consider whether the objecting provider has or will provide a bond, letter of credit, or other indicia of financial commitment guaranteeing the project's completion.

(e) If the board denies funding to an applicant as a result of a broadband service provider's objection made under this section, and the broadband service provider does not fulfill its commitment to provide broadband service in the project area, then for the following two grant and loan cycles, the board is prohibited from denying funding to an applicant on the basis of a challenge by the same broadband service provider, unless the board determines that the broadband service provider's failure to fulfill the provider's commitment was the result of factors beyond the broadband service provider's control. The board is not prohibited from denying funding to an applicant for reasons other than an objection by the same broadband service provider.

(f) An applicant or broadband service provider that objected to the application may request a debriefing conference regarding the board's decision on the application. Requests for debriefing must be coordinated by the office and must be submitted in writing in accordance with procedures specified by the office.

(g) Confidential business and financial information submitted by an objecting provider under this subsection is exempt from disclosure under chapter 42.56 RCW.

(7)(a) In evaluating applications and awarding funds, the board shall give priority to applications that are constructed in areas identified as unserved.

(b) In evaluating applications and awarding funds, the board may give priority to applications that:

(i) Provide assistance to public-private partnerships deploying broadband infrastructure from areas currently served with broadband service to areas currently lacking access to broadband services;

(ii) Demonstrate project readiness to proceed;

(iii) Construct infrastructure that is open access, meaning that during the useful life of the infrastructure, service providers may use network services and facilities at rates, terms, and conditions that are not discriminatory or preferential between providers, and employing accountable interconnection arrangements published and available publicly;

(iv) Are submitted by tribal governments whose reservations are in rural and remote areas where reliable and efficient broadband services are unavailable to many or most residents;

(v) Bring broadband service to tribal lands, particularly to rural and remote tribal lands or areas servicing rural and remote tribal entities;

(vi) Are submitted by tribal governments in rural and remote areas that have spent significant amounts of tribal funds to address the problem but cannot provide necessary broadband services without either additional state support, additional federal support, or both;

(vii) Serve economically distressed areas of the state as the term "distressed area" is defined in RCW 43.168.020;

(viii) Offer new or substantially upgraded broadband service to important community anchor institutions including, but not limited to, libraries, educational institutions, public safety facilities, and health care facilities;

(ix) Facilitate the use of telemedicine and electronic health records, especially in deliverance of behavioral health services and services to veterans;

(x) Provide technical support and train residents, businesses, and institutions in the community served by the project to utilize broadband service;

(xi) Include a component to actively promote the adoption of newly available broadband services in the community;

(xii) Provide evidence of strong support for the project from citizens, government, businesses, and community institutions;

(xiii) Provide access to broadband service to a greater number of unserved households and businesses, including farms;

(xiv) Utilize equipment and technology demonstrating greater longevity of service;

(xv) Seek the lowest amount of state investment per new location served and leverage greater amounts of funding for the project from other private and public sources;

(xvi) Include evidence of a customer service plan;

(xvii) Consider leveraging existing broadband infrastructure and other unique solutions;

(xviii) Benefit public safety and fire preparedness; or

(xix) Demonstrate other priorities as the board, in collaboration with the office, may prescribe by rule.

(c) The board shall endeavor to award funds under this section to qualified applicants in all regions of the state.

(d) The board shall consider affordability and quality of service to end users in making a determination on any application.

(e) The board, in collaboration with the office, may develop additional rules for eligibility, project applications, the associated objection process, and funding priority, as provided under this subsection and subsections (3), (5), and (6) of this section.

(f) The board, in collaboration with the office, may adopt rules for a voluntary nonbinding mediation between incumbent providers and applicants to the grant and loan program created in this section.

(8) To ensure a grant or loan to a private entity under this section primarily serves the public interest and benefits the public, any such grant or loan must be conditioned on a guarantee that the asset or infrastructure to be developed will be maintained for public use for a period of at least fifteen years.

(9)(a) No funds awarded under this section may fund more than fifty percent of the total cost of the project, except as provided in (b) of this subsection.

(b) The board may choose to fund up to ninety percent of the total cost of a project in financially distressed areas as the term "distressed area" is defined in RCW 43.168.020, and in areas identified as Indian country as the term "Indian country" is defined in WAC 458-20-192.

(c) Funds awarded to a single project under this section must not exceed two million dollars, except that the board may choose to fund projects qualifying for the exception in (b) of this subsection up to, but not to exceed, five million dollars.

(10) (~~Prior~~) Except for during the 2021-2023 fiscal biennium, prior to awarding funds under this section, the board must consult with the Washington utilities and transportation commission. The commission must provide to the board an assessment of the technical feasibility of a proposed application. The board must consider the commission's assessment as part of its evaluation of a proposed application.

(11) The board shall have such rights of recovery in the event of default in payment or other breach of financing agreement as may be provided in the agreement or otherwise by law.

(12) The community economic revitalization board shall facilitate the timely transmission of information and documents from its broadband program to the board in order to effectuate an orderly transition.

(13) The definitions in RCW 43.330.530 apply throughout this section unless the context clearly requires otherwise.

NEW SECTION. Sec. 7041. (1) The department of enterprise services shall convene a construction industry work group to recommend how to apply successful carbon reduction strategies, incorporate necessary parameters of design and construction considerations, and allow for efficient and cost effective state construction projects. The work group must be comprised of construction industry professionals as recommended by a leading association on Washington business in design, specification, construction, and material supply and construction professionals that have successfully realized real and measurable results. The work group must also include a representative from the department of enterprise services, representatives from environmental groups, and someone of applicable expertise from the Washington academy of sciences.

(2) The work group shall identify and recommend carbon reduction strategies and environmental product declaration principles to successfully apply in state construction projects and:

(a) Clarify the definition of environmental product declaration to ensure that environmental product declarations (EPD) are applied properly, consistently, and as intended and provide a baseline of understanding based on accepted metrics to obtain measurable results for state construction projects;

(b) Suggest a pilot project or project review to apply construction industry recommendations and create an education and standards brief that accompanies the report required under subsection (3) of this section;

(c) Outline the environmental project review data collection process in functional detail and use existing data gathering resources such as EC3; and

(d) Identify measurable outcome criteria to establish a project baseline summary for use during design from estimated project material quantities using industry average environmental product declarations.

(3) The work group shall provide their recommendations in a report to the fiscal committees of the legislature by January 1, 2022.

(d) Identify measurable outcome criteria to establish a project baseline summary for use during design from estimated project material quantities using industry average environmental product declarations; and

(e) Identify sustainable and low-carbon emitting building materials, including but not limited to, aggregate and recycled concrete materials, as described in subsection (4) of this section.

(3) The work group shall provide their recommendations in a report to the fiscal committees of the legislature by January 1, 2022.

(4)(a) The legislature continues to prioritize Washington state's sustainability goals and reaffirms its determination that recyclable construction aggregate and recycled concrete materials are too valuable to be wasted and landfilled. The legislature further finds that the reuse of construction aggregate and recycled concrete materials into construction projects is known to:

(i) Reduce the need for consumption of new construction aggregate materials and conserves existing aggregate resources;

(ii) Encourages reuse and recycling, reduces waste, and discourages landfilling of readily available natural resources;

(iii) Reduces truck trips and related transportation emissions; and

(iv) Reduces greenhouse gases related to the construction of state funded construction projects, reduce embodied energy, and improve and advance the sustainable principles and practices of Washington state.

(b) These recyclable materials have well established markets, are substantially a primary or secondary product of necessary construction processes and production, as a commodity substantially meets widely recognized international, national, and local standards and specifications, and are managed as an item of commercial value.

Sec. 7042. RCW 43.63A.750 and 2020 c 356 s 7008 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 (~~biennium~~) biennia may not exceed sixteen million dollars.

(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.

NEW SECTION. Sec. 7043. The office of financial management must compile a list of 2021-2023 fiscal biennium capital budget grant programs managed by state agencies and the direct and indirect administrative fee percentages charged for each. For the purposes of this section, "administrative fee percentages" means rates charged by state agencies and the rates grant recipients are allowed to charge for direct and/or indirect administrative costs. The office of financial management must submit the list of capital budget grant programs and their associated administrative fee percentages to the house capital budget committee and the senate ways and means committee by October 1, 2021.

Sec. 7044. RCW 28B.77.070 and 2019 c 413 s 7029 are each amended to read as follows:

(1) The council shall identify budget priorities and levels of funding for higher education, including the two and four-year institutions of higher education and state financial aid programs. It is the intent of the legislature for the council to make budget recommendations for allocations for major policy changes in accordance with priorities set forth in the ten-year plan, but the legislature does not intend for the council to review and make recommendations on individual institutional budgets. It is the intent of the legislature that recommendations from the council prioritize funding needs for the overall system of higher education in accordance with priorities set forth in the ten-year plan. It is also the intent of the legislature that the council's recommendations

take into consideration the total per-student funding at similar public institutions of higher education in the global challenge states.

(2) By December of each odd-numbered year, the council shall outline the council's fiscal priorities under the ten-year plan that it must distribute to the institutions, the state board for community and technical colleges, the office of financial management, and the joint higher education committee.

(a) Capital budget outlines for the two-year institutions shall be submitted to the office of financial management by August 15th of each even-numbered year, and shall include the prioritized ranking of the capital projects being requested, a description of each capital project, and the amount and fund source being requested.

(b) Capital budget outlines for the four-year institutions must be submitted to the office of financial management by August 15th of each even-numbered year, and must include: The institutions' priority ranking of the project; the capital budget category within which the project will be submitted to the office of financial management in accordance with RCW 43.88D.010; a description of each capital project; and the amount and fund source being requested.

(c) The office of financial management shall reference these reporting requirements in its budget instructions.

(3) The council shall submit recommendations on the operating budget priorities to support the ten-year plan to the office of financial management by October 1st each year, and to the legislature by January 1st each year.

(4)(a) The office of financial management shall develop one prioritized list of capital projects for the legislature to consider that includes all of the projects requested by the four-year institutions of higher education that were scored by the office of financial management pursuant to chapter 43.88D RCW, including projects that were previously scored but not funded. The prioritized list of capital projects shall be based on the following priorities in the following order:

- (i) Office of financial management scores pursuant to chapter 43.88D RCW;
- (ii) Preserving assets;
- (iii) Degree production; and
- (iv) Maximizing efficient use of instructional space.

(b) The office of financial management shall include all of the capital projects requested by the four-year institutions of higher education, except for the minor works projects, in the prioritized list of capital projects provided to the legislature.

(c) The form of the prioritized list for capital projects requested by the four-year institutions of higher education shall be provided as one list, ranked in priority order with the highest priority project ranked number "1" through the lowest priority project numbered last. The ranking for the prioritized list of capital projects may not:

- (i) Include subpriorities;
- (ii) Be organized by category;
- (iii) Assume any state bond or building account biennial funding level to prioritize the list; or

(iv) Assume any specific share of projects by institution in the priority list.

(5) Institutions and the state board for community and technical colleges shall submit any supplemental capital budget requests and revisions to the office of financial management by November 1st and to the legislature by January 1st.

(6) For the ~~((2017-2019 fiscal biennium and the))~~ 2019-2021 fiscal biennium and the 2021-2023 fiscal biennium, pursuant to subsection (4) of this section, the office of financial management may, but is not obligated to, develop one prioritized list of capital projects for the legislature to consider that includes all of the projects requested by the four-year institutions of higher education that were scored by the office of financial management pursuant to chapter 43.88D RCW, including projects that were previously scored but not funded.

Sec. 7045. RCW 28A.320.330 and 2019 c 411 s 3 and 2019 c 410 s 3 are each reenacted and amended to read as follows:

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1)(a) A general fund for the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(b) By the 2018-19 school year, a local revenue subfund of its general fund to account for the financial operations of a school district that are paid from local revenues. The local revenues that must be deposited in the local revenue subfund are enrichment levies and transportation vehicle levies collected under RCW 84.52.053, local effort assistance funding received under chapter 28A.500 RCW, and other school district local revenues including, but not limited to, grants, donations, and state and federal payments in lieu of taxes, but do not include other federal revenues, or local revenues that operate as an offset to the district's basic education allocation under RCW 28A.150.250. School districts must track expenditures from this subfund separately to account for the expenditure of each of these streams of revenue by source, and must provide the supplemental expenditure schedule under (c) of this subsection, and any other supplemental expenditure schedules required by the superintendent of public instruction or state auditor, for purposes of RCW 43.09.2856.

(c) Beginning in the 2019-20 school year, the superintendent of public instruction must require school districts to provide a supplemental expenditure schedule by revenue source that identifies the amount expended by object for each of the following supplementary enrichment activities beyond the state funded amount:

(i) Minimum instructional offerings under RCW 28A.150.220 or 28A.150.260 not otherwise included on other lines;

(ii) Staffing ratios or program components under RCW 28A.150.260, including providing additional staff for class size reduction beyond class sizes allocated in the prototypical school model and additional staff beyond the staffing ratios allocated in the prototypical school formula;

(iii) Program components under RCW 28A.150.200, 28A.150.220, or 28A.150.260, not otherwise included on other lines;

(iv) Program components to support students in the program of special education;

(v) Program components of professional learning, as defined by RCW 28A.415.430, beyond that allocated under RCW 28A.150.415;

(vi) Extracurricular activities;

(vii) Extended school days or an extended school year;

(viii) Additional course offerings beyond the minimum instructional program established in the state's statutory program of basic education;

(ix) Activities associated with early learning programs;
(x) Activities associated with providing the student transportation program;
(xi) Any additional salary costs attributable to the provision or administration of the enrichment activities allowed under RCW 28A.150.276;
(xii) Additional activities or enhancements that the office of the superintendent of public instruction determines to be a documented and demonstrated enrichment of the state's statutory program of basic education under RCW 28A.150.276; and

(xiii) All other costs not otherwise identified in other line items.

(d) For any salary and related benefit costs identified in (c)(xi), (xii), and (xiii) of this subsection, the school district shall maintain a record describing how these expenditures are documented and demonstrated enrichment of the state's statutory program of basic education. School districts shall maintain these records until the state auditor has completed the audit under RCW 43.09.2856.

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320, and state forest revenues transferred pursuant to subsection (3) of this section.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation and replacement of facilities and systems where periodical repairs are no longer economical or extend the useful life of the facility or system beyond its original planned useful life. Such renovation and replacement shall include, but shall not be limited to, major repairs, exterior painting of facilities, replacement and refurbishment of roofing, exterior walls, windows, heating and ventilating systems, floor covering in classrooms and public or common areas, and electrical and plumbing systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy

conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(f)(i) Costs associated with implementing technology systems, facilities, and projects, including acquiring hardware, licensing software, and online applications and training related to the installation of the foregoing. However, the software or applications must be an integral part of the district's technology systems, facilities, or projects.

(ii) Costs associated with the application and modernization of technology systems for operations and instruction including, but not limited to, the ongoing fees for online applications, subscriptions, or software licenses, including upgrades and incidental services, and ongoing training related to the installation and integration of these products and services. However, to the extent the funds are used for the purpose under this subsection (2)(f)(ii), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations.

(g) Major equipment repair, painting of facilities, and other major preventative maintenance purposes. However, to the extent the funds are used for the purpose under this subsection (2)(g), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations. Based on the district's most recent two-year history of general fund maintenance expenditures, funds used for this purpose may not replace routine annual preventative maintenance expenditures made from the district's general fund.

(h) During the (~~2019-2021~~) 2021-2023 fiscal biennium, renovation and replacement of facilities and systems, purchase or installation of items of equipment and furniture, including maintenance vehicles and machinery, and other preventative maintenance or infrastructure improvement purposes.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW. State forestland revenues that are deposited in a school district's debt service fund pursuant to RCW 79.64.110 and to the extent not necessary for payment of debt service on school district bonds may be transferred by the school district into the district's capital projects fund.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW.

NEW SECTION. Sec. 7046. The department of natural resources, in coordination with the department of social and health services, shall enter into long-term, revenue-generating opportunities for under used portions of the Fircrest Residential Habilitation Center bounded by 15th Ave NE and NE 150th Street to benefit the charitable, educational, penal, and reformatory institutions account. Long-term, revenue generating opportunities may include, but are not limited to, land leases, land sales, and land swaps. The department of social and health services and the department of natural resources must amend their lease under chapter 7, Laws of 1986 if necessary to conform with this section.

NEW SECTION. Sec. 7047. The legislature intends to consider predesign funding for the Washington state patrol crime laboratory I-5 consolidated facility in the 2022 supplemental capital budget. By December 1, 2021, the Washington state patrol must provide data to support the request for a consolidated crime lab. The agency must provide legislative fiscal staff with operating budget financial information including, but not limited to, a list of each leased facility that will be vacated when the consolidated lab is completed. For each facility, the Washington state patrol must provide at least the following:

- (1) Lease contract number;
- (2) Lease contract term;
- (3) Lease facility street address;
- (4) Lease facility cost, by fund and by state fiscal year for fiscal years 2020, 2021, 2022, and 2023;
- (5) Lease facility and maintenance staffing levels and funding by state fiscal year for fiscal years 2020, 2021, 2022, and 2023;
- (6) The most current six-year facilities plan;
- (7) An estimated certificate of participation payback schedule; and
- (8) A summary of how the operating costs from subsection (1) of this section will offset the certification of participation costs from subsection (3) of this section by state fiscal year.

NEW SECTION. Sec. 7048. The coronavirus capital projects account is created in the state treasury. All receipts from the federal coronavirus capital projects fund moneys under P.L. 117-2, Sec. 604, 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 capital projects directly enabling work, education and health monitoring, including remote options, in response to the public health emergency with respect to the coronavirus disease.

Sec. 7049. RCW 39.35D.030 and 2011 c 99 s 1 are each amended to read as follows:

(1) All major facility projects of public agencies receiving any funding in a state capital budget, or projects financed through a financing contract as defined in RCW 39.94.020, must be designed, constructed, and certified to at least the LEED silver standard. This subsection applies to major facility projects that have not entered the design phase prior to July 24, 2005, and to the extent appropriate LEED silver standards exist for that type of building or facility.

(2) All major facility projects of any entity other than a public agency or public school district receiving any funding in a state capital budget must be designed, constructed, and certified to at least the LEED silver standard. This subsection applies to major facility projects that have not entered the grant

application process prior to July 24, 2005, and to the extent appropriate LEED silver standards exist for that type of building or facility.

(3)(a) Public agencies, under this section, shall monitor and document ongoing operating savings resulting from major facility projects designed, constructed, and certified as required under this section.

(b) Public agencies, under this section, shall report annually to the department on major facility projects and operating savings.

(4) The department shall consolidate the reports required in subsection (3) of this section into one report and report to the governor and legislature by September 1st of each even-numbered year beginning in 2006 and ending in 2016. In its report, the department shall also report on the implementation of this chapter, including reasons why the LEED standard was not used as required by RCW 39.35D.020(5)(b). The department shall make recommendations regarding the ongoing implementation of this chapter, including a discussion of incentives and disincentives related to implementing this chapter.

(5) For the purposes of determining compliance with the requirement for a project to be designed, constructed, and certified to at least the LEED silver standard, the department must credit one additional point for a project that uses wood products with a credible third-party sustainable forest certification or from forests regulated under chapter 76.09 RCW, the Washington forest practices act. For projects that qualify for this additional point, and for which an additional point would have resulted in formal certification under the LEED silver standard, the project must be deemed to meet the standard under this section.

(6) During the 2021-2023 fiscal biennium, an alternative high-performance building certification, as determined by the legislature, may be used instead of the LEED silver building design, construction, and certification standard required by this section.

NEW SECTION. Sec. 7050. 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. 7051. 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 April 24, 2021.

Passed by the Senate April 23, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 19, 2021.

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 2021 session (67th Legislature), chapters 262 through 332, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 15th day of June, 2021.

A handwritten signature in black ink, appearing to read "Kathleen Buchli". The signature is written in a cursive style with a loop at the end.

Kathleen Buchli
Code Reviser